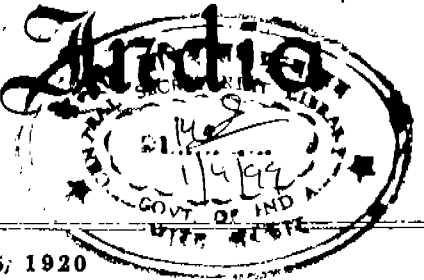




# भारत का राजपत्र The Gazette of India

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सं. 52]

नई दिल्ली, शनिवार, दिसम्बर 26, 1998/पौष 5, 1920

No. 52]

NEW DELHI, SATURDAY, DECEMBER 26, 1998/PAUSA 5, 1920

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में  
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a  
separate compilation

भाग II—खण्ड 3—उप खण्ड (ii)

PART II—Section 3—Sub-Section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएँ  
Statutory Orders and Notifications Issued by the Ministry of the Government of India  
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय  
(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 10 दिसम्बर, 1998

का. धा. 2678.—केन्द्रीय सरकार एतद्वारा वंछ प्रक्रिया  
संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24  
की उपधारा (8) द्वारा शक्तियों का प्रयोग करते हुए,  
हैदराबाद के सर्वश्री के. जगन मोहन राव तथा डी. एम.  
राव, अधिवक्ताओं को सारूरनगर, हैदराबाद, आन्ध्र प्रदेश  
स्थित प्रधान जिला और सेशन न्यायाधीश, जिला रंगारेड्डी  
के न्यायालय में मामला आर सी. 6 (एस)/92-सीबीआई  
विशाखापतनम के अभियोजन तथा किसी अन्य न्यायालय में  
उनसे संबंधित अथवा आनुषंगिक किसी अन्य विषय का  
संचालन करने के लिए विशेष लोक अभियोजक के रूप में नियुक्त  
करती है।

[सं. 225/37/95-ए. बी. डी.]

हरी सिंह, अव्वर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIE-  
VANCES AND PENSION

(Department of Personnel &amp; Training)

New Delhi, the 10th December, 1998

S.O. 2678.—In exercise of the powers conferred  
by sub-section (8) of section 24 of the Code of  
Criminal Procedure, 1973 (Act No. 2 of 1974),  
the Central Government hereby appoints S/sh. K.  
Jagan Mohan Rao and D. M. Rao Advocates,  
Hyderabad as Special Public Prosecutors for con-  
ducting the prosecution of case RC-6(S)/92-CBI/  
Visakhapatnam in the Court of Principal District  
and Sessions Judge, Ranga Reddy District at  
Saroor Nagar, Hyderabad, Andhra Pradesh and any  
other matter connected therewith or incidental  
thereto in any other Court.

[No. 225/37/95-AVD. II]

HARI SINGH, Under Secy.

नई दिल्ली, 14 दिसम्बर, 1998

का.आ. 2679.—केन्द्रीय सरकार एतद्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम संख्या 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए श्री दिलीप कुमार दास, अधिवक्ता, गुवाहाटी (असम) को जिला तथा सेशन न्यायाधीश शिलांग के न्यायालय में सम्बन्धित भारतीय दंड संहिता की धारा 120 ख के साथ पठित धारा 302 तथा विस्फोटक पदार्थ अधिनियम की धारा 5 तथा आयुध अधिनियम की धारा 25 के अन्तर्गत राज्य बनाम निरेन शर्मा सुपुत्र सूर्योदधन शर्मा निवासी डेक्कर गोरा, जोरहाट तथा अन्यो से संबंधित मामला सं. आर. सी. 3/81 (असम)/सी आई यू. 1/सी बी आई/नई दिल्ली के विचारण तथा अन्य कार्यवाहियों का संचालन करने के लिए विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[संख्या 225/25/98-ग. वी. डी-II]

हरि सिंह, अध्वर सचिव

New Delhi, the 14th December, 1998

S.O. 2679.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri Dilip Kumar Das, Advocate, Guwahati (Assam) as Special Public Prosecutor for the purpose of conducting the trial and other proceedings of Case No. RC-3/81(S)/CIU-I/CBI/New Delhi. State V/S Niren Sharma S/o Suryodhan Sharma R/o Dhekergora, Jorhat (Assam) & others under sections 120B r/w 302 IPC & Sec. 5 of Explosive Substantive Act & 25 of Arms Act pending in the Court of District and Session Judge, Shillong.

[No. 225/25/98-AVD. II]

HARI SINGH, Under Secy.

विस्त मंत्रालय

(राजस्व विभाग)

आदेश

नई दिल्ली, 11 दिसम्बर, 1998

स्टाम्प

का.आ. 2680.—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा भारतीय औद्योगिक विस्त निगम लि., नई दिल्ली को मात्र दो करोड़ नब्बे लाख तिरपन हजार तिरपन रुपये का समेकित स्टाम्प शुल्क अदा करने की अनुमति प्रदान करती है जो उक्त निगम द्वारा निम्न-रूप से वर्णित —

- (क) 31-3-98 को आर्बिट्रिस 2135544 से 2136723 तक की विशिष्ट संख्या वाले आई. एफ. सी. आई. बॉन्ड (XXI शृंखला)

(ख) 31-3-98 को आर्बिट्रिस 2136724 से 214940 तक की विशिष्ट संख्या वाले आई. एफ. सी. आई. बॉन्ड (XXI शृंखला) ; और

(ग) 20-7-98 को आर्बिट्रिस 2200001 से 2215919 तक की विशिष्ट संख्या वाले आई. एफ. सी. आई. (XXII शृंखला) ;

के दो सौ छियानवे करोड़ तैतालीस लाख पांच हजार दो सौ इक्यानवे रुपये के समस्त के प्रोमिसरी नोटों के रूप में बांडों पर स्टाप्प शुल्क के कारण प्रभार्य है।

[सं. 40/98-स्टाम्प-फा. सं. 15/23/98-एस.टी.]

अपर्णा शर्मा, अध्वर सचिव

## MINISTRY OF FINANCE

(Department of Revenue)

### ORDER

New Delhi, the 11th December, 1998

### STAMPS

S.O. 2680.—In exercise of the powers conferred by clause (b) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits the Industrial Finance Corporation of India Limited, New Delhi to pay consolidated stamp duty of rupees two crore ninety lakhs fifty three thousand fifty three only chargeable on account of the stamp duty on bonds in the nature of promissory notes described as —

- (a) IFCI Bonds (XXI Series) bearing distinctive numbers from 2135544 to 2136723 allotted on 31-03-98;
- (b) IFCI Bonds (XXI Series) bearing distinctive numbers from 2136724 to 2149401 dated allotted on 31-03-98; and
- (c) IFCI Bonds (XXII Series) bearing distinctive numbers from 2200001 to 2215919 allotted on 20-7-98

aggregating to rupees two hundred ninety six crores forty three lakhs five thousand two hundred ninety one only, by the said Corporation.

[No. 40/98-STAMPS/F No. 15/23/98-ST]  
APARNA SHARMA, Under Secy.

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 14 दिसम्बर, 1998

का.आ. 2681.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उप-बंध) स्कीम, 1980 के खंड 9 के उपखंड (1) और (2)

के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1980 की धारा 9 की उपधारा 3 के खण्ड (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात् एतद्द्वारा, श्री डी.के. पौदार, अध्यक्ष, अखिल भारतीय ओरियंटल बैंक अधिकारी संघ को 14 दिसम्बर, 1998 से और 13 दिसम्बर 2001 तक, या ओरियंटल बैंक आफ कामर्स के अधिकारी के रूप में उनकी सेवाएं समाप्त होने तक, जो भी पहले हो, ओरियंटल बैंक आफ कामर्स के बोर्ड में निदेशक के रूप में नामित करती है। यह सामाकल रिट याचिका सं. 4422-23/1998 (एल) में उच्च न्यायालय के अंतिम निर्णय के अध्वधीन होगा।

[फा सं. 9/7/98-बी. ओ.-I]

के. के. मंगल, अवग सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 14th December, 1998

S.O. 2681.—In exercise of the powers conferred by clause (1) of sub-section (3) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, read with sub-section (1) and (2) of clause 9 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1980, the Central Government, after consultation with the Reserve Bank of India, hereby nominates Shri D. K. Paudar, President, All India Oriental Bank Officers' Association as a Director on the Board of Oriental Bank of Commerce with effect from 14th December, 1998 and upto 13th December, 2001, or until he ceases to be an officer of Oriental Bank of Commerce, whichever is earlier. The nomination will be subject to the final decision of the High Court of Karnataka in Writ Petition No. 4422-23/1998(L).

[F. No. 9/7/98-B. O. II]

K. K. MANGAL, Under Secy.

मुख्य आयकर आयुक्त का कार्यालय

कलकत्ता, 26 नवम्बर, 1998

सं. 9/98-99

का.आ. 2682.—बोर्ड के पत्र एफ.सं. ए-11018/13/98-खंड VII, दिनांक 01-09-98 द्वारा आयकर आयुक्त (अपील)-VII, कलकत्ता का स्थानान्तरण मुख्य आयकर आयुक्त, कलकत्ता के क्षेत्र से हजारीबाग हो जाने के फलस्वरूप उक्त प्रभार तत्काल प्रभाव से रद्द होता है।

आयकर अधिनियम 1961 (1961 के 43) की धारा 120 की उपधारा (1) एवं (2) में दिये गये अधिकार, अधिसूचना सं. 9565 फा.सं. 279/129/93-आई.टी.जे. (भाग-II) दिनांक 5-7-94 और एम. ओ. सं. 504 दिनांक 5-7-94 के अनुसार के.प्र.क.बो., नई दिल्ली द्वारा दिये गये अधिकार एवं मुझे सौंपे गये अन्य अधिकारों का प्रयोग करते हुए एवं इस संदर्भ में पूर्व अधिसूचनाओं का अधिक्रमण एवं आंशिक संशोधन करते हुए ऐसे अधिक्रमण के पहले किये गये मामलों या छूट जाने वाले मामलों को छोड़कर, मैं मुख्य आयकर आयुक्त, कलकत्ता, एतद्द्वारा यह आदेश देता हूँ कि संलग्न अनुसूची के कालम-2 में विनिर्दिष्ट इस क्षेत्र के आयकर आयुक्त (अ) ऐसे व्यक्तियों के संबंध में अपने कृत्यों का पालन करेंगे जिनके आयकर अथवा व्यय कर या अतिकर या व्याजकर या संपदा शुल्क का निर्धारण कालम-3 में विनिर्दिष्ट आयकर प्राधिकारियों/निर्धारण अधिकारियों के द्वारा आयकर अधिनियम 1961 की धारा 246 की उपधारा (2) के खंड (ए) से (एव) तक, घनकर अधिनियम 1957 (1957 का 27) की धारा 23 की उपधारा (1ए) के खंड (ए) से (ई) तक, दानकर अधिनियम 1958 (1958 का 18) की धारा 22 की उपधारा (1ए) के खंड (ए) से (ई) तक, कंपनी (लाभ) अतिकर अधिनियम 1984 (1984 का 7) की धारा 11 की उपधारा (1), व्याजकर अधिनियम 1974 (1974 का 45) की धारा 15 की उपधारा (1) और व्ययकर अधिनियम, 1987 (1987 का 35) की धारा (22) की उपधारा (1) और संपदा शुल्क अधिनियम 1953 की धारा 62 में उल्लिखित किन्हीं आदेशों में व्ययित हों।

2. जहां तक आयकर सर्कल, आयकर उपायुक्त के रेंज का बार्ड अथवा विशेष रेंज या उनके अंग इस अधिसूचना द्वारा एक प्रभार से दूसरे प्रभार में स्थानान्तरित हो गये हों, इस अधिसूचना के जारी होने के तुरन्त पहले आयकर आयुक्त (अ) के समीप उन आयकर बार्ड/सर्कल/विशेष रेंज अथवा उनके अंग में हुई निर्धारण से उद्भूत अपील संबंधित हों तो इस अधिसूचना के लागू होने की तिथि से उन विशेष बार्ड/सर्कल/विशेष रेंज अथवा उनके अंग से स्थानान्तरित किये गये मामलों का निष्पादन उन आयकर आयुक्त (अ) के द्वारा किये जायेंगे, जिनके अधीन उक्त बार्ड/सर्कल/विशेष रेंज अथवा उनके अंग स्थानान्तरित किये गये हों।

3. यह आदेश इस आदेश की तिथि से प्रभावी होगा।

## अनुसूची

## आयकर आयुक्त (अपील) का क्षेत्राधिकार

क्र.सं.	आयकर आयुक्त (अ) का पदनाम	क्षेत्राधिकार
1	2	3
1.	आयकर आयुक्त (अ)—1, कलकत्ता	<p>(क) संयुक्त आयकर आयुक्त, रैंज-1, कल. के अधीन कार्यरत सभी निर्धारण अधिकारी।</p> <p>(ख) संयुक्त आ.आ., वि. रैंज-2, कलकत्ता तथा/अथवा संयुक्त आ.आ. वि. रैंज-2 के अधीन सभी निर्धारण अधिकारी।</p> <p>(ग) संयुक्त आ.आ. वि. रैंज-22 कलकत्ता तथा/अथवा संयुक्त आ.आ., वि. रैंज-22, कलकत्ता के अधीन सभी निर्धारण अधिकारी।</p> <p>(घ) संयुक्त आ.आ., वि. रैंज-7, कलकत्ता तथा/अथवा संयुक्त आ.आ., वि. रैंज-7, कलकत्ता के अधीन सभी निर्धारण अधिकारी।</p> <p>(ङ) संयुक्त आ.आ., रैंज-21, कलकत्ता के अधीन कार्यरत सभी निर्धारण अधिकारी।</p>
2.	आयकर आयुक्त (अ)—6, कलकत्ता	<p>(क) संयुक्त आ.आ., रैंज-7, कलकत्ता के अधीन कार्यरत सभी निर्धारण अधिकारी।</p> <p>(ख) संयुक्त आ.आ., वि. रैंज-1, कलकत्ता तथा/अथवा संयुक्त आ.आ., वि. रैंज-1, कलकत्ता के अधीन सभी निर्धारण अधिकारी।</p> <p>(ग) संयुक्त आ.आ., रैंज-22, कलकत्ता के अधीन कार्यरत सभी निर्धारण अधिकारी।</p> <p>(घ) संयुक्त आ.आ., वि. रैंज-2, कलकत्ता तथा/अथवा संयुक्त आ.आ., वि. रैंज-2, कलकत्ता के अधीन सभी निर्धारण अधिकारी।</p> <p>(ङ) संयुक्त आ.आ., रैंज-13, कलकत्ता के अधीन कार्यरत सभी निर्धारण अधिकारी।</p>
3.	आयकर आयुक्त (अ)—10, कलकत्ता	<p>(क) सभी निर्धारण अधिकारी जिनके अधीन कार्यरत वे हैं :—</p> <p>(1) संयुक्त आ.आ., जलपाईगुडी रैंज-जलपाईगुडी।</p> <p>(2) संयुक्त आ.आ., सिलीगुडी रैंज-सिलीगुडी।</p> <p>(3) संयुक्त आ.आ., रैंज-6, कलकत्ता।</p> <p>(ख) संयुक्त आ.आ., वि. रैंज-जलपाईगुडी तथा/अथवा संयुक्त आ.आ., वि. रैंज-जलपाईगुडी के अधीन सभी निर्धारण अधिकारी।</p> <p>(ग) संयुक्त आ.आ., वि. रैंज-10, कलकत्ता तथा/अथवा संयुक्त आ.आ., वि. रैंज-10, कलकत्ता के अधीन सभी निर्धारण अधिकारी।</p>



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4. आयकर आयुक्त (अ)—12, कल.

(घ) संयुक्त आ.आ., वि. रेंज-21, कलकत्ता तथा/अथवा संयुक्त आ.आ., वि. रेंज-21, कलकत्ता के अधीन सभी निर्धारण अधिकारी।

(ङ) संयुक्त आ.आ., वि. रेंज-8, कलकत्ता तथा/अथवा संयुक्त आ.आ., वि. रेंज-8, कलकत्ता के अधीन सभी निर्धारण अधिकारी।

(क) सभी निर्धारण अधिकारी जिनके अधीन वे हैं :—

(1) संयुक्त आ.आ., रेंज-10, कलकत्ता

(2) संयुक्त आ.आ., रेंज-11, कलकत्ता

(3) संयुक्त आ.आ., रेंज-20, कलकत्ता

(4) संयुक्त आ.नि. (छूट), कलकत्ता

(ख) संयुक्त आ.आ., वि. रेंज-12, कलकत्ता तथा/अथवा संयुक्त आ.आ., वि. रेंज-12, कलकत्ता के अधीन सभी निर्धारण अधिकारी।

(ग) सहा. आ. आ. (अमु.) सर्कल-11(1) गौहाटी, विशेष मामलों का कलकत्ता में स्थानान्तरण प्र. क. बो. द्वारा किये जाने के संबंध में।

(घ) संयुक्त आ.आ., रेंज-15, कलकत्ता के अधीन कार्यरत सभी निर्धारण अधिकारी।

[सं. ए.सी./मुख्या/योजना/30/98-99]

टी. के. दास, मुख्य आयकर आयुक्त

## OFFICE OF THE CHIEF COMMISSIONER OF INCOME-TAX

Calcutta, the 26th November, 1998  
No. 9/98-99

S.O.2682.—Consequent to transfer of the charge of Commissioner of Income-tax (Appeals)-VII, Calcutta from the region of the Chief Commissioner of Income-tax Calcutta to Hazaribagh vide Board's letter F.No. A-11018/13/98-Ad. VII dated 01-09-1998 the said charge stands abolished with immediate effect.

In exercise of the powers conferred by Sub-section (1) & (2) of Section 120 of the Income-tax Act, 1961 (43 of 1961) and the powers conferred on me by the Central Board of Direct Taxes New Delhi vide Notification No. 9565 F.No. 279/129/93-ITJ (Pt.-II) dated 5-7-1994 and S.O. No. 504 dated 5-7-1994 and all other powers enabling me in this behalf and in partial modification and in supersession of all earlier Notifications made in this behalf except in respect of things done or omitted to be done before such supersession I the Chief Commissioner of Income-tax Calcutta hereby direct that the Commissioners of Income-tax (Appeals) of this region specified in Column 2 of the Schedule attached hereto shall perform their functions in respect of such persons assessed to Income-tax or Expenditure Tax or Sur-tax or Interest Tax or Estate Duty by the Income-tax Authorities/Assessing Officers specified in Column

3 thereof as are aggrieved by any orders mentioned in clauses (a) to (h) of Sub-section (2) of Section 246 of the Income-tax Act 1961 Clauses (a) to (e) of Sub-section (1A) of Section 23 of the Wealth Tax Act 1957 (27 of 1957) clauses (a) to (e) of Sub-section (1A) of Section 22 of the Gift Tax Act 1958 (18 of 1958) Sub-section (1) of Section 11 of the Companies (Profit) Sur-Tax Act 1984 (7 of 1984) Sub-section (1) of Section 15 of the Interest Tax Act 1974 (45 of 1974) Sub-section (1) of Section (22) of the Expenditure Tax Act 1987 (35 of 1987) and Section 62 of the Estate Duty Act 1953.

2. Where an Income-tax Circle Ward of J.C.I.T. Range or Special Range or part thereof stands transferred by this Notification from one charge to another appeals arising out of the assessments made in that Income-tax Ward/Circle/Special Range or part thereof and pending immediately before date from which this Notification takes effect before the Commissioner of Income-tax (Appeals) from whose charge that particular Income-tax Ward/Circle/Special Range or part thereof is transferred shall from the date from which this Notification takes effect be transferred to and dealt with by the Commissioner of Income-tax (Appeals) to whom the said Ward/Circle/Special Range or part thereof is transferred.

3. This Order shall take effect from the date of its order.

## SCHEDULE

## JURISDICTION OF THE COMMISSIONER OF INCOME-TAX (APPEALS)

Sl. No.	Designation of the Commissioner of Income-tax (Appeals)	Jurisdiction
1	2	3
1.	Commissioner of Income-tax (Appeals)-I, Calcutta.	<p>(a) All the Assessing Officers functioning under the Joint Commissioner of Income-tax, Range-1, Calcutta.</p> <p>(b) The Joint Commissioner of Income tax, Special Range-11, Calcutta and/or all the Assessing Officers subordinate to the Joint Commissioner of Income-tax, Special Range-11, Calcutta.</p> <p>(c) The Joint Commissioner of Income tax, Special Range-22, Calcutta and/or all the Assessing Officers subordinate to the Joint Commissioner of Income-tax, Special Range-22, Calcutta.</p> <p>(d) The Joint Commissioner of Income tax, Special Range-7, Calcutta and/or all the Assessing Officers subordinate to Joint Commissioner of Income-tax, Special Range-7, Calcutta.</p> <p>(e) All the Assessing Officers functioning under the Joint Commissioner of Income-tax, Range-21, Calcutta.</p>
2.	Commissioner of Income-tax (Appeals)-VI, Calcutta.	<p>(a) All the Assessing Officers functioning under the Joint Commissioner of Income-tax, Range-7, Calcutta.</p> <p>(b) The Joint Commissioner of Income tax Special Range-1, Calcutta and/or all the Assessing Officers subordinate to the Joint Commissioner of Income-tax, Special Range-1, Calcutta.</p> <p>(c) All the Assessing Officers functioning under the Joint Commissioner of Income-tax, Range-22, Calcutta.</p> <p>(d) The Joint Commissioner of Income-tax, Special Range-2, Calcutta and or all the Assessing Officers subordinate to the Joint Commissioner of Income-tax, Special Range-2, Calcutta.</p> <p>(e) All the Assessing Officers functioning under the Joint Commissioner of Income-tax, Range-13, Calcutta.</p>
3.	Commissioner of Income-tax (Appeals)-X, Calcutta.	<p>(a) All the Assessing Officers functioning under:—</p> <p>(i) Joint Commissioner of Income-tax, Jalpaiguri Range, Jalpaiguri.</p> <p>(ii) Joint Commissioner of Income-tax, Siliguri Range, Siliguri.</p> <p>(iii) Joint Commissioner of Income-tax, Range-6, Calcutta.</p> <p>(b) The Joint Commissioner of Income-tax, Special Range-Jalpaiguri and/or all Assessing Officers subordinate to the Joint Commissioner of Income-tax, Special Range-Jalpaiguri.</p> <p>(c) The Joint Commissioner of Income-tax, Special Range-10, Calcutta and/or All Assessing Officers subordinate to the Joint Commissioner of Income-tax, Special Range-10, Calcutta.</p> <p>(d) The Joint Commissioner of Income-tax, Special Range-21, Calcutta and/or all the Assessing Officers subordinate to the Joint Commissioner of Income-tax, Special Range-21, Calcutta.</p>

1	2	3
		(e) The Joint Commissioner of Income-tax, Special Range-8, Calcutta and/or all the Assessing Officers subordinate to the Joint Commissioner of Income-tax, Special Range-8, Calcutta.
4. Commissioner of Income-tax. (Appeals)-XII, Calcutta.	(a) All the Assessing Officers functioning under:—	
	(i) The Joint Commissioner of Income-tax, Range-10, Calcutta.	
	(ii) The Joint Commissioner of Income-tax, Range-11, Calcutta.	
	(iii) Joint Commissioner of Income-tax, Range-20, Calcutta.	
	(iv) The Joint Director of Income-tax (Exemption), Calcutta.	
	(b) The Joint Commissioner of Income-tax, Special Range-2, Calcutta and/or all the Assessing Officers subordinate to the Joint Commissioner of Income-tax, Special Range-12, Calcutta.	
	(c) The Assistant Commissioner of Income-tax (Investigation) Circle-II(1), Guwahati in respect of the Specific cases transferred by the Central Board of Direct Taxes to Calcutta.	
	(d) All the Assessing Officers functioning under the Joint Commissioner of Income-tax, Range-15, Calcutta.	

[No. AC/HQ/PLANNING /30/98-99]

T.K. DAS, Chief Commissioner of Income-tax.

रसायन और उर्वरक मंत्रालय  
(उर्वरक विभाग)

नई दिल्ली, 9 दिसम्बर, 1998

का.प्र. 2683.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 के नियम 10 के उप नियम (4) के अनुसरण में रसायन एवं उर्वरक मंत्रालय उर्वरक विभाग के प्रशासनिक नियंत्रण में आने वाले निम्नलिखित कार्यालयों को, जिनके 80 प्रतिशत से अधिक कर्मचारी वृत्त ने हिन्दी का कार्य साधक ज्ञान प्राप्त किया है, अधिसूचित करती है :—

इंडियन फार्मर्स फर्टिलाइजर कोऑपरेटिव लिमिटेड, राज्य सं. क्षेत्रीय कार्यालय, जम्मू।

इंडियन फार्मर्स फर्टिलाइजर कोऑपरेटिव लिमिटेड, क्षेत्रीय कार्यालय, जालन्धर, पंजाब।

इंडियन फार्मर्स कोऑपरेटिव लिमिटेड, कार्यालय, अमृतसर, पंजाब।

इंडियन फार्मर्स कोऑपरेटिव लिमिटेड, गुरुगांव, हरियाणा।

[सं. ई-11011/5/93-हिन्दी]

नरेंद्र कुमार अग्रवाल, अतिरिक्त औद्योगिक सलाहकार

MINISTRY OF CHEMICALS & FERTILIZERS  
(Department of Fertilizers)

New Delhi, the 9th December, 1998

S.O. 2683.—In pursuance of Sub-rule (4) of the Rule 10 of the Official Language “Use for official purposes of the Union” Rule 1976 the Central Govt. hereby notifies the following office, under the Administrative Control of Ministry of Chemicals & Fertilizers, Department of Fertilizers, more than 80 per cent staff whereof have acquired the working knowledge of Hindi.

Indian Farmers Fertilizer Cooperative Limited,  
State-cum-Regional Office, Jammu.

Indian Farmers Fertilizer Cooperative Limited,  
Regional Office, Jalandhar, Punjab.

Indian Farmers Fertilizers Cooperative Limited,  
Regional Office, Amritsar, Punjab.

Indian Farmers Fertilizer Cooperative Limited,  
Regional Office, Gurgaon, Haryana.

[No. E-11011/5/93-Hindi]

NARENDER KUMAR AGGARWAL, Addl.  
Industrial Adviser

## पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 10 दिसम्बर, 1998

का. प्र. 2684.—केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि राजस्थान राज्य में कांडला-जामनगर-लोनी पाइपलाइन के माध्यम से सरल पेट्रोलियम गैस के परिवहन के लिए गैस अथॉरिटी ऑफ इंडिया लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए।

और कि ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए इस अधिसूचना से उपाबद्ध अनुसूची में वर्णित भूमि के उपयोग के अधिकार का अर्जित करना आवश्यक है,

अतः, अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उनमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है,

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति, राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध कराए जाने की तारीख से इसकीस दिनों के भीतर, उसमें उपयोग के अधिकार का अर्जन या भूमि में पाइपलाइन में बिछाने के संबंध में आक्षेप, लिखित रूप में सक्षम प्राधिकारी, गैस अथॉरिटी ऑफ इंडिया लिमिटेड, कांडला-जामनगर-लोनी पाइपलाइन परियोजना, बी-21/ए, शिवमार्ग, बनी पार्क, जयपुर (राजस्थान)-16 को कर सकेगा।

## अनुसूची

जिला	तहसील	ग्राम	सर्वे नम्बर	उ.का.प्र. के लिए अर्जित की जाने वाली भूमि (हेक्टेयर में)
1	2	3	4	5
अलवर	तिजारा	अलवरपुर	98	0.1268
			77	0.1287
			96	0.0713
			87	0.0871
			86	0.0871
			88	0.0168
			85	0.0475
			89	0.1030
			90	0.0475
			82	0.1267
			81	0.0317
			79	0.1663
			78	0.0307
			80	0.0010
			48	0.0158
			46	0.0317
			7	0.0079
			8	0.1109
			9	0.2614
			10	0.1188
			25	0.0040
			16	0.1742
			14	0.0317

1	2	3	4	5
			15	0.0475
			17	0.1821
			18	0.0040
			योग	2.0592
	कालगांव		1318	0.0396
			1319	0.3406
			1323	0.0079
			1324	0.0475
			1325	0.0713
			1328	0.1188
			1327	0.0317
			1329	0.1267
			1330	0.0396
			1335	0.1901
			1340	0.0871
			1341	0.1416
			1345	0.0010
			1339	0.0239
			1381	0.0158
			1405	0.0792
			1410	0.0158
			1407	0.1782
			1406	0.0980
			1409	0.0010
			1417	0.1030
			1419	0.1346
			1418	0.0792
			1421	0.1426
			1423	0.0040
			1422	0.1821
			1454	0.0198
			1517	0.0396
			1518	0.0237
			1521	0.0158
			1522	0.0015
			1540	0.1252
			1541	0.1109
			1542	0.0713
			1543	0.0792
			1544	0.0633
			1648	0.2059
			1549	0.1109
			1550	0.1188
			1551	0.1267
			1505	0.0237
			419	0.1030
			योग	3.5402

1	2	3	4	5
	माजरी गूजर	735		0.0158
		83		0.0237
		82		0.0475
		61		0.2138
		116		0.1030
		115		0.0040
		113		0.0025
		117		0.0257
		118		0.0317
		125		0.0396
		128		0.0317
		127		0.0554
		127/918		0.0158
		127/919		0.0357
		127/920		0.0396
		149		0.0079
		151		0.1346
		152		0.1307
		153		0.0158
		220		0.0118
		199		0.0020
		198		0.0455
		197		0.0475
		196		0.0396
		195		0.0871
		194		0.0832
		193		0.0158
		192		0.0010
		187		0.1495
		269		0.0079
		272		0.0554
		273		0.1010
		275		0.0020
		276		0.0673
		277		0.0910
		293		0.0079
		281		0.0713
		284		0.0475
		282		0.0633
		283		0.0792
		285		0.0871
		286		0.0079
		योग		2.1463
	मण्डाना	782		0.1109
		763		0.0475
		761		0.0559

1	2	3	4	5
		मण्डाना	765	0.2673
			769	0.0010
			767	0.3346
			766	0.0010
			768	0.0198
			628	0.0158
			620	0.0396
			621	0.1980
			546	0.0594
			532	0.1030
			533	0.3960
			505	0.0633
			463	0.0158
			454	0.0475
			455	0.0079
			453	0.1188
			452	0.0633
			449	0.0673
			448	0.0633
			446	0.0633
			445	0.0554
			444	0.0514
			443	0.0950
			441	5.1426
			440	0.0475
			439	0.0357
			854	0.1466
			855	0.0554
			856	0.0475
			860	0.1426
			864	0.0158
			894	0.0950
			893	0.2217
			881	0.0713
			882	0.0396
			883	0.1030
			888	0.0158
			880	0.0020
			940	0.0772
		योग		3.4214
	सरकनपुर		595	0.1030
			470	0.0357
			489	0.0478
			494	0.0475
			493	0.0771
			492	0.0475
			495	0.3564
			464	0.0198

1	2	3	4	5
	सगकनपुर (जारी)		447	0. 1426
			446	0. 0237
			431	0. 1821
			429	0. 0079
			428	0. 1901
			411	0. 0237
			410	0. 0158
			334	0. 1015
			324	0. 0015
			321	0. 0396
			320	0. 0633
			317	0. 0713
			316	0. 0317
			313	0. 0633
			312	0. 0475
			311	0. 0277
			303	0. 0015
			302	0. 0302
			301	0. 0079
			300	0. 0237
			288	0. 0118
			287	0. 0079
			286	0. 0317
			267	0. 0277
			270	0. 0317
			271	0. 0317
			272	0. 0475
			262	0. 2495
			योग	2. 2809
	इपारीका		1019	0. 0554
			1018	0. 1426
			1016	0. 1663
			1015	0. 0079
			1014	0. 2138
			1017	0. 0396
			858	0. 1505
			852	0. 0871
			857	0. 1267
			859	0. 1267
			856	0. 0079
			860	0. 0792
			861	0. 0040
			800	0. 1386
			799	0. 1505
			798	0. 2217



1	2	3	4	5
	इशरोबा (जारी)	797		0.0618
		796		0.0015
		795		0.0015
		794		0.1055
		473		0.2044
		445		0.0015
		472		0.0673
		471		0.1584
		463/2206		0.0079
		465		0.1070
		464		0.0118
		419		0.0158
		262		0.1578
		258		0.0010
		263		0.0237
		264		0.0554
		267		0.0990
		255		0.0040
		268		0.1188
		270		0.0396
		271		0.0237
		108		0.0317
		272		0.1861
		273		0.0118
		90		0.1861
		89		0.0040
		86		0.0831
		91		0.0713
		84		0.0158
		85		0.0357
		48		0.0158
		8		0.2614
		7		2.2812
		287		0.0317
		1384		0.0040
		1363		0.4356
		1362		0.1821
		1361		0.0158
		1375		0.0475
		1380		0.0871
		1381		0.0713
		1383		0.1821
		1384		0.1228
		1389		0.0198
		योग		5.3697
	बधोल	297		0.1346
		298		0.0079
		299		0.0633

1	2	3	4	5
	बचाला (जारी)	296		0.0554
		300/547		0.1188
		300		0.2930
		300/548		0.0040
		303		0.1426
		304		0.2643
		470		0.0010
		468		0.0713
		452/2		0.0792
		453		0.1109
		454		0.1030
		455		0.0633
		456		0.0386
		458		0.0010
		445		0.0158
		373		0.0158
		375		0.2123
		381		0.0015
		377		0.1030
		378		0.1346
		128		0.1030
		119		0.0317
		117		0.1188
		116		0.1824
		120		0.0396
		114		0.1742
		113		0.1980
		112		0.0237
		111		0.0317
		योग		2.9383
	रम्भाना	878		0.1346
		773		0.0079
		771		0.0237
		769		0.0950
		768		0.0554
		767		0.0792
		766		0.2217
		764		0.0515
		423		0.1109
		421		0.1188
		426		0.0396
		419		0.0990
		418		0.0396
		429		0.0554
		463		0.0040
		462		0.0015
		458		0.2678
		455		0.0317

1	2	3	4	5
	रम्भावा (जारी)	457		0.2059
		449		0.0554
		513		0.0158
		509		0.1901
		510		0.0079
		503		0.0158
		502		0.1346
		481		0.0158
		501		0.0792
		500		0.1149
		498		0.2614
		499		0.0475
		497		0.1109
		योग		2.6925
	पावटी	879		0.0079
		877		0.0010
		815		0.0861
		814		0.0713
		813		0.0158
		812		0.0950
		811		0.0633
		808		0.2138
		807		0.0158
		806		0.1109
		योग		0.6809
	नानगहेडी	216		0.1267
		217		0.0040
		218		0.1663
		213		0.0158
		219		0.1908
		220		0.0633
		221		0.1188
		222		0.2653
		223		0.0227
		233		0.0010
		योग		0.9747
	बाधंडी खुर्द	443		0.0990
		440/484		0.1584
		439		0.0594
		438		0.0792
		436		0.3168
		435		0.0396
		432		0.0357
		431		0.0277
		430		0.0436
		428		0.0277

1	2	3	4	5
	सावंडी खुर्द (जारी)	427		0.0277
		424		0.0515
		423		0.0381
		422		0.0015
		309		0.0713
		310		0.0237
		योग		1.1009
	खिदरपुर	175		0.2614
		174		0.1584
		169		0.1663
		166		0.1505
		165		0.3326
		160		0.2574
		131		0.1663
		132		0.0010
		129		0.1732
		128		0.1426
		110		0.0040
		137		0.0158
		18		0.0015
		17		0.2838
		21		0.1584
		22		0.1742
		25		0.1346
		24		0.0158
		26		0.1821
		27		0.2059
		28		0.2376
		29		0.1584
		30		0.0792
		योग		3.4610
	पाटनकलां	745		0.2534
		758		0.0277
		778		0.1426
		777		0.0713
		776		0.0753
		775		0.0396
		772		0.0950
		774		0.0633
		787		0.0079
		788		0.0475
		773		0.1030
		593		0.0396
		518		0.1030
		517		0.0792
		439		0.0871

1	2	3	4	5
	पाटनकला	441		0.0811
		442		0.0475
		446		0.0554
		443		0.0633
		445		0.0782
		450		0.0010
		449		0.0792
		458		0.0475
		457		0.0396
		456		0.0554
		455		0.0713
		464		0.0040
		465		0.0713
		390		0.3881
				2.3284
	जोधपुर	698		0.0475
		699		0.1584
		700		0.0466
		697		0.0010
		708		0.0118
		709		0.0237
		710		0.1109
		711		0.1188
		721		0.0792
		720		0.0871
		718		0.0079
		719		0.0792
		354		0.1070
		353		0.0713
		342		0.0871
		349		0.1109
		346		0.1267
		345		0.0871
		294		0.0871
		293		0.0079
		292		0.1426
		योग		1.5998
	बुधकाहेडा	658		0.3564
		657		0.1584
		654		0.4514
		656		0.0795
		655		0.2217
		363		0.0158
		364		0.1742
		360		0.0396
		320		0.0554
		297		0.0792

1	2	3	4	5
		बुलकाहेडा (जारी) 298		0.1287
		299		0.0633
		300		0.0713
		301		0.0396
		302		0.0040
		303		0.1426
		304		0.0158
		308		0.0358
		307		0.0040
		265		0.1252
		266		0.0015
		योग		2.2414
	घोली पहाड़ी	75		0.0633
		74		0.1109
		73		0.0792
		72		0.0792
		71		0.0475
		70		0.0317
		66		0.0079
		53		0.1980
		52		0.0079
		54		0.0198
		55		0.1109
		57		0.0198
		58		0.1269
		401		0.0158
		400		0.0079
		411		0.0554
		410		0.0040
		399		0.0554
		412		0.1426
		413		0.0779
		414		0.0713
		421		0.0618
		422		0.0015
		419		0.0040
		433		0.0950
		434		0.0633
		455		0.1109
		453		0.0792
		454		0.0713
		449		0.0317
		437		0.0396

1	2	3	4	5
			444	0.0475
			447	0.0396
			446	0.0475
			445	0.0317
			योग	1.9879
			कुल योग	38.8235

[सं. एल-14014/9/98 जी.पी.]

आई.एस.एन. प्रसाद, उप सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS  
New Delhi, the 10th December, 1998

S.O. 2684.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of Liquid Petroleum Gas through Kandla—Jamnagar—Loni Pipeline Project in Rajasthan State, Pipeline should be laid by the Gas Authority of India Limited;

And Whereas, it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed to this notification;

Now therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipeline (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said schedule may within twenty one days from the date on which the copies of this notification, as published in the Gazette of India, are made available to the General Public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to the Competent Authority, Gas Authority of India Limited, Kandla-Jamnagar-Loni Pipeline Project, B-21/A, first floor, Shiv Marg, Bani Park, Jaipur (Rajasthan).

SCHEDULE

District	Tehsil	Village	Plot No.	Land to be acquired for R.O.U. (In Hectare)
Alwar	Tijara	Alwalpur	98	0.1268
			97	0.1267
			96	0.0713
			87	0.0871
			86	0.0871
			88	0.0158
			85	0.0475
			89	0.1030
			90	0.0475
			82	0.1267
			81	0.0317
			79	0.1663
			78	0.0307
			80	0.0010
			48	0.0158
			46	0.0137
			7	0.007
			8	0.1109

1	2	3	4	5
			9	0.2614
			10	0.1188
			25	0.0040
			16	0.1742
			14	0.0317
			15	0.0475
			17	0.1821
			18	0.0040
			<b>TOTAL</b>	<b>2.0592</b>
	<b>Kalgaon</b>		1318	0.0396
			1319	0.3406
			1323	0.0079
			1324	0.0475
			1325	0.0713
			1326	0.1188
			1327	0.0317
			1329	0.1267
			1330	0.0396
			1335	0.1901
			1340	0.0871
			1341	0.1416
			1345	0.0010
			1339	0.0239
			1381	0.0158
			1409	0.0792
			1410	0.0158
			1407	0.1782
			1406	0.0980
			1405	0.0010
			1417	0.1030
			1419	0.1346
			1418	0.0792
			1421	0.1426
			1423	0.0040
			1422	0.1821
			1454	0.0198
			1517	0.0396
			1518	0.0237
			1521	0.0158
			1522	0.0015
			1540	0.1252
			1541	0.1109
			1542	0.0713
			1543	0.0792
			1544	0.0633
			1548	0.2059
			1549	0.1109
			1550	0.1188
			1551	0.1267
			1505	0.0237
			419	0.1030
			<b>TOTAL</b>	<b>3.5402</b>



1	2	3	4	5
		Majri Gujar	735	0.0158
			83	0.0237
			82	0.0475
			81	0.2138
			116	0.1030
			115	0.0040
			113	0.0025
			117	0.0257
			118	0.0317
			125	0.0396
			126	0.0317
			127	0.0554
			127/918	0.0158
			127/919	0.0357
			127/920	0.0396
			149	0.0079
			151	0.1346
			152	0.1307
			153	0.0158
			220	0.0118
			199	0.0020
			198	0.0455
			197	0.0475
			196	0.0396
			195	0.0871
			194	0.0832
			193	0.0158
			192	0.0010
			187	0.1495
			269	0.0079
			272	0.0554
			273	0.1010
			275	0.0020
			276	0.0673
			277	0.0910
			293	0.0079
			281	0.0713
			284	0.0475
			282	0.0633
			283	0.0792
			285	0.0871
			286	0.0079
			<b>TOTAL</b>	<b>2.1463</b>
		Mandhana	762	0.1109
			763	0.0475
			761	0.0559
			765	0.2673
			769	0.0010
			767	0.1346
			766	0.0010
			768	0.0198
			628	0.0158
			620	0.0396
			621	0.1980
			546	0.0594

1	2	3	4	5
		Mandhana	532	0.1030
			533	0.3960
			505	0.0633
			463	0.0158
			454	0.0475
			455	0.0079
			453	0.1188
			452	0.0633
			449	0.0673
			448	0.0633
			446	0.0633
			445	0.0554
			444	0.0514
			443	0.0950
			441	5.1426
			440	0.0475
			439	0.0357
			854	0.1466
			855	0.0554
			856	0.0475
			860	0.1426
			864	0.0158
			894	0.0950
			893	0.2217
			881	0.0713
			882	0.0396
			883	0.1030
			888	0.0158
			880	0.0020
			940	0.0772
		TOTAL		3.4214
		Sarkanpur	595	0.1030
			470	0.0357
			489	0.0478
			494	0.0475
			493	0.0871
			492	0.0475
			495	0.3564
			464	0.0198
			447	0.1426
			446	0.0237
			431	0.1821
			429	0.0079
			428	0.1901
			411	0.0237
			410	0.0158
			334	0.1015
			324	0.0015
			321	0.0396
			320	0.0533
			317	0.0713
			316	0.0317
			313	0.0633
			312	0.0475

1	2	3	4	5
			311	0.0277
			303	0.0015
			302	0.0302
			301	0.0079
			300	0.0237
			288	0.0118
			287	0.0079
			286	0.0317
			267	0.0277
			270	0.0317
			271	0.0317
			272	0.0475
			262	0.2495
			<b>TOTAL</b>	<b>2.2809</b>
			1019	0.0554
			1018	0.1426
			1016	0.1663
			1015	0.0079
			1014	0.2138
			1017	0.0396
			858	0.1505
			852	0.0871
			857	0.1267
			859	0.1267
			856	0.0079
			860	0.0792
			861	0.0040
			800	0.1386
			799	0.1505
			798	0.2217
			797	0.0618
			796	0.0015
			795	0.0015
			794	0.1055
			473	0.2044
			445	0.0015
			472	0.0673
			471	0.1584
			463/2206	0.0079
			465	0.1070
			464	0.0118
			419	0.0158
			262	0.1578
			258	0.0010
			263	0.0237
			264	0.0554
			267	0.0990
			255	0.0040
			268	0.1188
			270	0.0396
			271	0.0237
			108	0.0317
			272	0.1861
			273	0.0118
			90	0.1861
			89	0.0040

1	2	3	4	5
			86	0.0831
			91	0.0713
			84	0.0158
			85	0.0357
			48	0.0158
			8	0.2614
			7	0.2812
			287	0.0317
			1364	0.0040
			1363	0.4356
			1362	0.1821
			1361	0.0158
			1375	0.0475
			1380	0.0871
			1381	0.0713
			1383	0.1821
			1384	0.1228
			1389	0.0198
			<b>TOTAL</b>	<b>5.3697</b>

## Bachala

297	0 1346
298	0.0079
299	0 0633
296	0 0554
300/547	0 1188
300	0 2930
300/548	0 0040
303	0 1426
304	0 2643
470	0 0010
468	0 0713
452/2	0 0792
453	0 1109
454	0 1030
455	0 0633
456	0.0386
458	0.0010
445	0.0158
373	0.0158
375	0.2123
381	0.0015
377	0.1030
378	0.1346
128	0.1030
119	0.0317
117	0.1188
116	0.1824
120	0.0396
114	0.1742
113	0.1980
112	0.0237
111	0.0317

**TOTAL** 2.9383

1	2	3	4	5
	Rambana	878	0.1346	
		773	0.0079	
		771	0.0237	
		769	0.0950	
		768	0.0554	
		767	0.0792	
		766	0.2217	
		764	0.0515	
		423	0.1109	
		421	0.1188	
		426	0.0396	
		419	0.0990	
		418	0.0396	
		429	0.0554	
		463	0.0040	
		462	0.0015	
		456	0.2678	
		455	0.0317	
		457	0.2059	
		449	0.0554	
		513	0.0158	
		500	0.1909	
		510	0.0070	
		503	0.0158	
		502	0.1346	
		481	0.0158	
		501	0.0792	
		500	0.1149	
		498	0.2614	
		499	0.0475	
		497	0.1109	
	TOTAL		2.6925	
	Pawati	879	0.0079	
		877	0.0010	
		815	0.0861	
		814	0.0713	
		813	0.0158	
		812	0.0950	
		811	0.0633	
		808	0.2138	
		807	0.0158	
		806	0.1109	
	TOTAL		0.6809	
	Nanag Hedi	216	0.1267	
		217	0.0040	
		218	0.1663	
		213	0.0158	
		219	0.1008	
		220	0.0633	
		221	0.1188	

1	2	3	4	5
			222	0 2653
			223	0.0227
			233	0 0010
			<b>TOTAL</b>	<b>0 9747</b>
	Chawadi Khurd		443	0.0990
			440/484	0.1584
			439	0 0594
			438	0.0792
			436	0.3168
			435	0.0396
			432	0.0357
			431	0.0277
			430	0.0436
			428	0.0277
			427	0.0277
			424	0 0515
			423	0.0381
			422	0.0015
			309	0.0713
			310	0.0237
			<b>TOTAL</b>	<b>1.1009</b>
	Khidulpur		175	0.2614
			174	0.1584
			180	0.1663
			166	0.1505
			165	0.3326
			160	0.2574
			131	0.1663
			132	0.0010
			129	0.1732
			128	0.1426
			110	0.0040
			137	0.0158
			18	0.0015
			17	0.2838
			21	0.1584
			22	0.1742
			25	0.1346
			24	0.0158
			26	0.1821
			27	0.2059
			28	0.2376
			29	0.1584
			30	0.0792
			<b>TOTAL</b>	<b>3.4610</b>
	Patana Kalan		745	0.2534
			758	0.0277
			778	0.1426
			777	0.0713
			776	0.0753
			775	0.0396
			772	0.0950

1	2	3	4	5
			774	0.0633
			787	0.0079
			788	0.0475
			773	0.1030
			593	0.0396
			518	0.1030
			517	0.0792
			439	0.0871
			441	0.0911
			442	0.0475
			446	0.0554
			443	0.0633
			445	0.0782
			450	0.0010
			449	0.0792
			458	0.0475
			457	0.0396
			456	0.0554
			455	0.0713
			464	0.0040
			465	0.0713
			390	0.3881
			<b>TOTAL</b>	<b>2.3284</b>
		<b>Jakhupur</b>	698	0.0475
			690	0.1584
			700	0.0499
			607	0.0010
			708	0.0118
			709	0.0237
			710	0.1109
			711	0.1168
			721	0.0792
			720	0.0871
			718	0.0079
			710	0.0079
			354	0.1070
			353	0.0713
			342	0.0871
			349	0.1109
			346	0.1267
			345	0.0871
			204	0.0871
			293	0.0079
			292	0.1426
			<b>TOTAL</b>	<b>1.5998</b>
		<b>Bubkahan</b>	658	0.3564
			657	0.1585
			654	0.4514
			656	0.0705
			655	0.2217
			363	0.0158
			364	0.1742
			360	0.0396

1	2	3	4	5
			320	0.0554
			298	0.0792
			298	0.1267
			200	0.0633
			300	0.0713
			301	0.0396
			302	0.0040
			303	0.1426
			304	0.0158
			308	0.0158
			307	0.0040
			265	0.1252
			266	0.0015
			<b>TOTAL</b>	<b>6.2414</b>
	<b>Dolipahari</b>		75	0.0633
			74	0.1109
			73	0.0702
			72	0.0792
			71	0.0475
			70	0.0317
			66	0.0070
			53	0.1080
			52	0.0079
			54	0.0108
			55	0.1.00
			57	0.0198
			58	0.1269
			401	0.0158
			400	0.0079
			411	0.0554
			410	0.0040
			309	0.0554
			412	0.1426
			413	0.0779
			414	0.0713
			421	0.0618
			422	0.0015
			419	0.0040
			433	0.0950
			434	0.0633
			455	0.1109
			453	0.0792
			454	0.0713
			440	0.0317
			437	0.0396
			444	0.0475
			447	0.0306
			446	0.0475
			445	0.0817
			<b>TOTAL</b>	<b>1.9879</b>
			<b>G. TOTAL</b>	<b>33.8253</b>

[No. L-14014/9/98-G.P.]

I.S.N. PRASAD, Dy. Secy.



नई दिल्ली, 10 दिसम्बर, 1998

का.आ. 2165.—केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि राजस्थान राज्य में कांडला-जामनगर-लोनी पाइपलाइन के माध्यम से तरल पेट्रोलियम गैस के परिवहन के लिए गैस अथॉरिटी ऑफ इंडिया लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए,

और कि ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए इस अधिसूचना से उपाबद्ध अनुसूची में वर्णित भूमि के उपयोग के अधिकार का अर्जित करना आवश्यक है।

अतः, अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उनमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है,

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति, राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध कराए जाने की तारीख से इक्कीस दिनों के भीतर उसमें उपयोग के अधिकार का अर्जन या भूमि में पाइपलाइन बिछाने के संबंध में आक्षेप लिखित रूप में सक्षम प्राधिकारी, गैस अथॉरिटी ऑफ इंडिया लिमिटेड कांडला-जामनगर-लोनी पाइपलाइन परियोजना बी-21 ए, शिवमार्ग बनी पार्क, जयपुर (राजस्थान)-16 को कर सकेगी।

## अनुसूची

जिला	तहसील	ग्राम	सर्वे नंबर	उ.का.प्र. के लिए अर्जित की जाने वाली भूमि (हेक्टेयर में)
1	2	3	4	5
अजमेर	किशनगढ़	मुण्डीलाव	463	0.6336
			467	0.0237
			470	0.2376
			431	0.0237
			442	0.1108
			441	0.0158
			440	0.0040
			414	0.1188
			439	0.0316
			415	0.0040
			438	0.1742
			437	0.2217
			419	0.2455
			420	0.0554
			421	0.1980
			422	0.1980
			424	0.1346
			377	0.0237
			376	0.0158
			31	0.0158
			32	0.0396
			51	0.2692
			52	0.0237
			54	0.3009
			55	0.1267
			57	0.0633

1	2	3	4	5
			58	0.1584
			136	0.0237
			130	0.1663
			127	0.0792
			129	0.3168
			144	0.3088
			145	0.2376
			125	0.0792
			152	0.4910
			114	0.1980
			154	0.0316
			159	0.1346
			160	0.0792
			175	0.7920
			181	0.2138
			179	0.0871
			180	0.2534
			187	0.2059
			188	0.1663
			189	0.2059
			201	0.0554
			202	0.0158
			208	1.2355
			205	0.0237
			योग	8.8689
अजमेर	किसानगढ़	देवपुरि	461	0.0237
			460	0.6573
			459/1	0.0396
			458	0.7444
			457/1	0.0633
			457/2	0.0950
			456	0.0316
			455	0.950
			454	0.01900
			449	0.0079
			447	0.3722
			448	0.2138
			444	0.1742
			462	0.2376
			443	0.1188
			464	0.0040
			463	0.0020
			441/5	0.0871
			439/1	0.3168
			535/1	0.0158
			535/2	0.0040

1	2	3	4	5
			535/3	0.0237
			542	0.2296
			541	0.0158
			540	0.1108
			549	0.2296
			546	0.0871
			548	0.316
			643	0.0950
			657	0.1188
			652	0.2059
			653	0.3009
			667	0.2059
			672	0.1188
			665/1	0.0237
			665/2	0.0158
			696/6	0.0237
			721	0.0158
			705/2	0.0237
			705/3	0.2296
			705/1	0.0237
			705/4	0.0040
			706	0.1029
			704	0.0158
			703	0.0040
			707	0.3326
			717	0.0079
			716	0.0871
			711	0.1742
			708	0.1980
			709	0.0158
			775	0.0316
			256	0.2692
			254	0.0396
			255	0.2217
			251	0.1584
			250	0.0237
			249/3	0.4276
			249/2	0.0079
			249/1	0.1663
			238/2	0.0316
			योग	7.9435
ग्रजमेर	फिशनगढ़	भारला	452	0.0396
			436	0.0079
			435/6	0.5227
			434	0.1504
			416	0.0871
			418	0.0396

1	2	3	4	5
			419	0.0475
			420	0.0475
			421	0.0079
			430	0.1663
			429	0.0633
			428	0.0950
			401	0.0158
			343	0.0237
			398	0.0020
			399	0.1108
			393	0.0237
			394	0.1029
			392	0.0020
			391	0.2613
			379	0.1108
			378	0.0020
			355	0.2059
			353	0.2138
			350	0.0079
			310	0.0316
			253	0.0040
			302	0.0237
			255	0.1267
			256	0.1108
			257	0.0712
			288	0.0040
			287	0.1742
			292	0.1663
			286	0.3168
			285	0.0633
			280	0.0040
			279	0.1029
			281	0.2059
			282	0.2217
			283	0.0554
			152	0.0237
			योग	4.0636
अजमेर	किशनगढ़	कटसूरा	1365	0.0020
			1364	0.0079
			1362	0.0396
			1361	0.0237
			1360	0.0396
			1359	0.0475
			1358	0.0475
			1357	0.0316

1	2	3	4	5
			1352	0.1188
			1350	0.0396
			1349	0.0633
			1348	0.0633
			1346	0.0316
			1347	0.0316
			1343	0.0237
			1344	0.0396
			1355	0.0396
			1256	0.0158
			1255	0.0316
			1250	0.0237
			1249	0.0158
			1248	0.0158
			58	0.2534
			102	0.0237
			103	0.1029
			104	0.3326
			105	0.1504
			106	0.1742
			107	0.0396
			129	0.1821
			128	0.0475
			127	0.0396
			126	0.2376
			141	0.1029
			124	0.2059
			226	0.1188
			229	0.0316
			493	0.1425
			489	0.0040
			488	0.4593
			484	0.0633
			483	0.0871
			482	0.0871
			481	0.0040
			527	0.0020
			528	0.0396
			529	0.0633
			530	0.0396
			532	0.1029
			531	0.0158
			534	0.0396
			533	0.0020
			538	0.0079
			539	0.0633
			540	0.1504
			551	0.0396

1	2	3	4	5
			550	0.1029
			549	0.0020
			547	0.0792
			552	0.1029
			554	0.0712
			546	0.0316
			545	0.2059
			544	0.0040
			471	0.0158
			470	0.1663
			468	0.0020
			467	0.1742
			466	9.1346
			455	0.0871
			456	0.0040
			585	0.0079
			454/1	0.0316
			454/2	0.0040
			451	0.0396
			453	0.1821
			448	0.2138
			447	0.1029
			444	0.0871
			442/2	0.1584
			441	0.1425
			285/7	0.0475
			285/5	0.0079
			285/6	0.0712
			285/4	0.1425
			285/3	0.1029
			286	0.0316
			योग	6.8065
मजमेर	किशनगढ़	घोसपुरिया	663/1	0.0020
			663/2	0.1425
			664	0.2930
			665	0.0020
			673	0.1584
			674	0.3009
			675	0.0158
			676	0.3385
			679	0.0158
			682	0.0475
			681	0.0712
			661	0.0158
			563	0.0158

1	2	3	4	5
			558	0.4333
			557	0.0020
			559	0.0237
			545	0.3089
			546	0.1188
			547	0.2296
			539	0.1900
			548	0.0020
			योग	2.7275
अजमेर	किशनगढ़	कालीनाड़ा	479	0.1188
			481	0.5306
			473	0.2217
			472	0.1029
			471	0.0237
			465	0.1980
			464	0.0316
			486	0.0554
			565	0.1267
			566	0.0079
			563	0.3247
			557	0.2296
			558	0.0237
			556	0.2930
			555	0.0396
			525	0.1188
			523	0.2296
			522	0.2772
			600	0.0079
			511/1	0.0871
			601	0.3009
			602	0.1504
			603	0.1108
			606	0.0475
			388/4	0.0316
			289	0.0079
			388/2	0.1188
			388/1	0.1029
			387/2	0.1504
			387/1	0.0475
			385	0.0475
			363	0.0079
			364	0.0040
			365/1	0.1267
			373	0.0237
			383/1	0.0158

1	2	3	4	5
			383/2	0.1584
			374	0.0158
			375	0.0316
			376	0.0079
			382/2	0.0040
			378	0.0158
			381	0.1584
			367/1	0.0475
			194	0.0158
			284	0.0950
			286	0.0792
			290	0.2455
			289	0.0712
			291	0.4593
			304	0.1584
			314	0.0079
			315	0.3088
			316/14	0.0316
			316/15	0.2217
			316/16	0.1742
			316/17	0.0237
			316/18	0.0950
			261	0.0316
			262/18	0.1029
			योग	6.9040
झजमेर	किसलगढ़	भोगाहित	418	0.0237
			417	0.6336
			39	0.2772
			योग	0.9345
झजमेर	किसलगढ़	रिहरी	468	0.1108
			443	0.1504
			444	0.1584
			433	0.4197
			449	0.2059
			450	0.4118
			432	0.1425
			409	0.0396
			245	0.2772
			243	0.1504
			247	0.1504
			248	0.1504



1	2	3	4	5
			242	0.1346
			239	0.4197
			238	1.1088
			237	0.1504
			236	0.0316
			202/1	0.4752
			199	0.2851
			194	1.0058
			192	0.0237
			189	0.0237
			191	0.2138
			190	0.1584
			187	0.1742
			186	0.1584
			183	0.1663
			182	0.1900
			179	0.1267
			179/476	0.00475
			177	0.1346
			योग	7.3960
			कुल योग	45.6425

[सं. एल.—14014/9/98 जी. पी.]

आई. एस. एन. प्रसाद, उप सचिव

New Delhi, the 10th December, 1998

S.O. 2685.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of liquid Petroleum Gas through Kandla—Jamnagar—Loni Pipeline Project in Rajasthan State, Pipeline should be laid by the Gas Authority of India Limited;

And Whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed to this notification;

Now Therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipeline (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said schedule may within twenty one days from the date on which the copies of this Notification, as published in the Gazette of India, are made available to the General Public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to the Competent Authority, Gas Authority of India Limited, Kandla-Jamnagar-Loni Pipeline Project, B-21/A, first Floor, Shiv Marg, Bani Park, Jaipur (Rajasthan).

## SCHEDULE

Distt.	Tehsil	Village	Survey No.	Land to be Acquired for rou in Hectare
Ajmer	Kishangarh	Mundolay	463	0.6336
			467	0.0237

			470	0.2376
			431	0.237
			442	0.1108
			441	0.0158
			440	0.0040
			414	0.1188
			439	0.0316
			415	0.0040
			438	0.1742
			437	0.2217
			419	0.2455
			420	0.0554
			421	0.1980
			422	0.1980
			424	0.1346
			377	0.0237
			376	0.158
			31	0.158
			32	0.0396
			51	0.2692
			52	0.0239
			54	0.3009
			55	0.1267
			57	0.0633
			58	0.1584
			136	0.0237
			130	0.1663
			127	0.0792
			129	0.3168
			144	0.3088
			145	0.2376
			125	0.0792
			152	0.4910
			114	0.1980
			154	0.0316
			159	0.1346
			160	0.0792
			175	0.7920
			181	0.2138
			179	0.0871
			180	0.2534
			187	0.2059
			188	0.1663
			189	0.2059
			201	0.0554
			202	0.0158
			208	1.2355
			205	0.0237
				8.8689
Ajmer	Kishangarh	Devpuri	461	0.0237
			460	0.6573
			459/1	0.0396

1	2	3	4	5
			458	0.7444
			457/1	0.0633
			457/2	0.0950
			456	0.0316
			455	0.0950
			454	0.1900
			449	0.0079
			447	0.3722
			448	0.2138
			444	0.1742
			462	0.2376
			443	0.1188
			464	0.0040
			463	0.0020
			441/5	0.0871
			439/1	0.3168
			535/1	0.0158
			535/2	0.0040
			535/3	0.0237
			542	0.2296
			541	0.0158
			540	0.1108
			549	0.2296
			546	0.0871
			548	0.0316
			543	0.0950
			657	0.1188
			652	0.2059
			653	0.3009
			667	0.2059
			672	0.1188
			665/1	0.0237
			665/2	0.0158
			696/6	0.0237
			721	0.0158
			705/2	0.0237
			705/3	0.2296
			705/1	0.0237
			705/4	0.0040
			706	0.1029
			704	0.0158
			703	0.0040
			707	0.3326
			717	0.0079
			716	0.0871
			711	0.1742
			708	0.1980
			709	0.0158
			775	0.0316
			256	0.2692
			254	0.0396
			255	0.2217
			251	0.1584
			250	0.0237
			249/3	0.4276
			249/2	0.0079

1	2	3	4	5
			249/1	0.1663
			238/2	0.316
			TOTAL	7.9435
Ajmer	Kishangarh	Bharla	452	0.0396
			436	0.0079
			435/6	0.5227
			434	0.1504
			416	0.0871
			418	0.0396
			419	0.0475
			420	0.0475
			421	0.0079
			430	0.1663
			429	0.0633
			428	0.0950
			401	0.0158
			343	0.0237
			398	0.0020
			399	0.1108
			393	0.0237
			394	0.1029
			392	0.0020
			391	0.2613
			379	0.1108
			378	0.0020
			355	0.2059
			353	0.2138
			350	0.0079
			310	0.0316
			253	0.0040
			302	0.0237
			255	0.1267
			256	0.1108
			257	0.0712
			288	0.0040
			287	0.1742
			292	0.1663
			286	0.3168
			285	0.0633
			280	0.0040
			279	0.1029
			281	0.2059
			282	0.2217
			283	0.0554
			152	0.0237
			TOTAL	4.0636
Ajmer	Kishangarh	Katsura	1365	0.0020
			1364	0.0079
			1362	0.0396
			1361	0.0237

1	2	3	4	5
			1360	0.0396
			1359	0.0475
			1358	0.0475
			1357	0.0316
			1352	0.1188
			1350	0.0396
			1349	0.0633
			1348	0.0633
			1346	0.0316
			1347	0.0316
			1343	0.0237
			1344	0.0396
			1355	0.0396
			1256	0.0158
			1255	0.0316
			1250	0.0237
			1249	0.0158
			1248	0.0158
			58	0.2534
			102	0.0237
			103	0.1029
			104	0.3326
			105	0.1504
			106	0.1742
			107	0.0396
			129	0.1821
			128	0.0475
			127	0.0396
			126	0.2376
			141	0.1029
			124	0.2059
			226	0.1188
			229	0.0316
			493	0.1425
			489	0.0040
			488	0.4593
			484	0.0633
			483	0.0871
			482	0.0871
			481	0.0040
			527	0.0020
			528	0.0396
			529	0.0633
			530	0.0396
			532	0.1029
			531	0.0158
			534	0.0396
			533	0.0020
			538	0.0079
			539	0.0633
			540	0.1504
			551	0.0396
			550	0.1029
			549	0.0020
			547	0.0792

1	2	3	4	5
Ajmer (Contd.)	Kishangarh (contd.)	Katsura (Contd.)	552	0.1029
			554	0.0712
			546	0.0316
			545	0.2059
			544	0.0040
			471	0.0158
			470	0.1663
			468	0.0020
			467	0.1742
			466	0.1346
			455	0.0871
			456	0.0040
			585	0.0079
			454/1	0.0316
			454/2	0.0040
			451	0.0396
			453	0.1821
			448	0.2138
			447	0.1029
			444	0.0871
			442/2	0.1584
			441	0.1425
			285/7	0.0475
			285/5	0.0079
			285/6	0.0712
			285/4	0.1425
			285/3	0.1029
			286	0.0316
		TOTAL		6.8065
	Dholpuriya		663/1	0.0020
			663/2	0.1425
			664	0.2930
			665	0.0020
			673	0.1584
			674	0.3009
			675	0.0158
			676	0.3385
			679	0.0158
			682	0.0475
			681	0.0712
			661	0.0158
			563	0.0158
			558	0.4333
			557	0.0020
			559	0.0237
			545	0.3089
			546	0.1188
			547	0.2296
			539	0.1900
			548	0.0020
		TOTAL		2.7275

1	2	3	4	5
Ajmer (Contd.)	Kishangarh (Contd.)	Kalanada	479	0.1188
			481	0.5306
			473	0.2217
			472	0.1029
			471	0.0237
			465	0.1980
			464	0.0316
			486	0.0554
			565	0.1267
			566	0.0079
			563	0.3247
			557	0.2296
			558	0.0237
			556	0.2930
			555	0.0396
			525	0.1188
			523	0.2296
			522	0.2772
			600	0.0079
			511/1	0.0871
			601	0.3009
			602	0.1504
			603	0.1108
			606	0.0475
			388/4	0.0316
			389	0.0079
			388/2	0.1188
			388/1	0.1029
			387/2	0.1504
			387/1	0.0475
			385	0.0475
			363	0.0079
			364	0.0040
			365/1	0.1267
			373	0.0237
			383/1	0.0158
			383/2	0.1584
			374	0.0158
			375	0.0316
			376	0.0079
			382/2	0.0040
			378	0.0158
			381	0.1584
			367/1	0.0475
			194	0.0158
			284	0.0950
			286	0.0792
			290	0.2455
			289	0.0712
			291	0.4593
			304	0.1584
			314	0.0079
			315	0.3038
			316/14	0.0316
			316/15	0.2217

1	2	3	4	5
Ajmer (Contd.)	Kishangarh (Contd.)	Kalanada (Contd.)	316/16	0.1742
			316/17	0.0237
			316/18	0.0950
			261	0.0316
			262/18	0.1029
			TOTAL	6.9040
		Bhogadit	418	0.0237
			417	0.6336
			39	0.2772
			TOTAL	0.9345
		Tiheri	468	0.1108
			443	0.1504
			444	0.1584
			433	0.4197
			449	0.2059
			450	0.4118
			432	0.1425
			409	0.0396
			245	0.2772
			243	0.1504
			247	0.1504
			248	0.1504
			242	0.1346
			239	0.4197
			238	1.1088
			237	0.1504
			236	0.0316
			202/1	0.4752
			199	0.2851
			194	1.0058
			192	0.0237
			189	0.0237
			191	0.2138
			190	0.1584
			187	0.1742
			186	0.1584
			183	0.1663
			182	0.1900
			179	0.1267
			179/476	0.0475
			177	0.1346
			TOTAL	7.3960
			G. TOTAL	45.6425



नई दिल्ली, 10 दिसम्बर, 1998

का. आ. 2686:—केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि राजस्थान राज्य में कांछला-जामनगर-लोनी पाइपलाइन के माध्यम से तरल पेट्रोलियम गैस के परिवहन के लिए गैस अथॉरिटी आफ इंडिया लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए,

और कि ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए इस अधिसूचना में उपाबद्ध अनुसूची में वर्णित भूमि के उपयोग के अधिकार का अर्जन करना आवश्यक है ;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन ( भूमि में उपयोग के अधिकार का अर्जन ) अधिनियम, 1962 ( 1962 का 50 ), की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उनमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति, राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध कराए जाने की तारीख से इक्कीस दिनों के भीतर, उसमें उपयोग के अधिकार का अर्जन या भूमि में पाइपलाइन बिछाने के संबंध में आक्षेप, लिखित रूप में सक्षम प्राधिकारी, गैस अथॉरिटी आफ इंडिया लिमिटेड कांछला-जामनगर-लोनी पाइपलाइन परियोजना बी—21/ए, शिवमार्ग, बनी पार्क, जयपुर ( राजस्थान ) —16 को कर सकेगा।

## अनुसूची

जिला	तहसील	ग्राम	सर्वे नंबर	उ. का. अ. के लिए अर्जित की जाने वाली भूमि (हेक्टेयर में)
1	2	3	4	5
प्रसवर	किशनगढ़	बस्तीबीरथल	299	0.1109
			300	0.1188
			301	0.0792
			302	0.0119
			304	0.0040
			295	0.0040
			318	0.5346
			282	0.1267
			281	0.1267
			181	0.0623
			185	0.0010
			186	0.0475
			280	0.0010
			187	0.1336
			188	0.1030
			189	0.1426
			193	0.0079
			144/2	0.0713
			198	0.0554
			143	0.0713
			142	0.0396
			141	0.2138
			139	0.1030
			138	0.0873
			136	0.0792
			137	0.0020

1	2	3	4	5
अलवर (जारी)	किशनगढ़	बस्ती बीरथल	135	0.1722
			134	0.0010
			88	0.1970
			52	0.1346
			52/865	0.1821
			76	0.1030
			75	0.0158
			58	0.0623
			74	0.0010
			73	0.0475
			59	0.1188
			योग	3.3739
	माचरोली		404	0.0475
			8	0.0713
			10	0.1030
			12	0.0633
			13	0.0554
			14	0.0040
			17	0.1109
			16	0.2455
			26	0.0238
			33	0.1584
			32	0.0633
			29	0.1307
			28	0.0396
			योग	1.1167
	बघेरी कलां		1262	0.0633
			1261	0.0237
			1260	0.0871
			1266	0.1505
			1259	0.0396
			1258	0.1821
			1273	0.0475
			1274	0.1426
			1224	0.2217
			1226	0.0079
			1223	0.0237
			1214	0.0317
			1213	0.0633
			1211	0.0911
			1135	0.0237
			1136	0.0010
			1137	0.0475

1	2	3	4	5
		बघेरी कला (जारी)	1138	0.0237
			1143	0.0623
			1144	0.0020
			1145	00.505
			1146	0.0554
			1147	0.0515
			1149	0.0713
			1151	0.0158
			1058	0.1109
			1059	0.1426
			1050	0.1242
			1051	0.0025
			1048	0.0554
			1049	0.0317
			1045	0.0079
			1040	0.2297
			1039	0.0871
			1025	0.0237
			1009	0.0475
			1006	0.1188
			1007	0.0237
			1005	0.1544
			997	0.0158
			998	0.1663
			993	0.0396
			992	0.0990
			991	0.0990
			990	0.0790
			989	0.0792
			988	0.0317
			1026	0.0237
			697	0.0040
			698	0.0317
			703	0.1584
			704	0.1980
			709	0.0237
			708	0.1426
			707	0.0040
			710	0.0633
			711	0.0633
			545	0.1505
			544	0.0633
			530	0.1663
			531	0.0793
			529	0.0396
			527	0.1663
			526	0.0317
			525	0.0872

1	2	3	4	5
		बधेरी कलां (जारी)	524	0.0040
			520	0.0040
			521	0.1742
			022	0.0317
			500	0.1663
			योग	5.2272
		जमुदास	639	0.0237
			640	0.0871
			378	0.1030
			377	0.0079
			योग	0.2217
		कुल योग		9.9395

[सं. एल.-14014/9/98-जो. पी.]

आई. एस. एन. प्रमाद, उप सचिव

New, Delhi the 10th December, 1998

S.O. 2686.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of Liquid Petroleum Gas through Kandla—Jamnagar—Loni Pipeline Project in Rajasthan State, Pipeline should be laid by the Gas Authority of India Limited.

And whereas, it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipeline (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said schedule may within twenty one days from the date on which the copies of this notification, as published in the Gazette of India, are made available to the General Public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to the Competent Authority, Gas Authority of India Limited, Kandla—Jamnagar—Loni Pipeline Project, B-21/A, first floor, Shiv Marg, Bani Park, Jaipur (Rajasthan).

## SCHEDULE

Distt.	Tehsil	Village	Survey No.	Land to be acquired for ROU in hectare
Alwar	Kishangarh	Bassibirthal	299	0.1109
			300	0.1188
			301	0.0792
			302	0.0119
			304	0.0040
			295	0.0040

1	2	3	4	5
Alwar (Contd.)	Kishangadh (Contd.)	Bassibirhal (Contd.)	318	0.5346
			282	0.1267
			281	0.1267
			181	0.0623
			185	0.0010
			186	0.0475
			280	0.0010
			187	0.1336
			188	0.1030
			189	0.1426
			193	0.0079
			144/2	0.0713
			198	0.0554
			143	0.0713
			142	0.0396
			141	0.2138
			139	0.1030
			138	0.0873
			136	0.0792
			137	0.0020
			135	0.1722
			134	0.0010
			88	0.1970
			52	0.1346
			52/865	0.1821
			76	0.1030
			75	0.0158
			58	0.0623
			74	0.0010
			73	0.0475
			59	0.1188
		TOTAL		3.3739
	Machroli		404	0.0475
			8	0.0713
			10	0.1030
			12	0.0633
			13	0.0554
			14	0.0040
			17	0.1109
			16	0.2455
			26	0.0238
			33	0.1584
			32	0.0633
			29	0.1307
			28	0.0396
		TOTAL		1.1167
	Bagheri Kalan		1262	0.0633
			1261	0.0237
			1260	0.0871
			1266	0.1505

1	2	3	4	5
		Bagheri Kalan (Contd.)	1259	0.0396
			1258	0.1821
			1273	0.0475
			1274	0.1426
			1224	0.2217
			1226	0.0079
			1223	0.0237
			1214	0.0317
			1213	0.0633
			1211	0.0911
			1135	0.0237
			1136	0.0010
			1137	0.0475
			1138	0.0237
			1143	0.0623
			1144	0.0020
			1145	0.0505
			1146	0.0554
			1147	0.0515
			1149	0.0713
			1151	0.0158
			1058	0.1109
			1059	0.1426
			1050	0.1242
			1051	0.0025
			1048	0.0554
			1049	0.0317
			1045	0.0079
			1040	0.2297
			1039	0.0871
			1025	0.0237
			1009	0.0475
			1006	0.1188
			1007	0.0237
			1005	0.1544
			997	0.0158
			998	0.1663
			993	0.0396
			992	0.0990
			991	0.0990
			990	0.0790
			989	0.0792
			988	0.0317
			1026	0.0237
			697	0.0040
			698	0.0317
			703	0.1584
			704	0.1980
			709	0.0237
			708	0.1426
			707	0.0040
			710	0.0633
			711	0.0633
			545	0.1505
			544	0.0633

1	2	3	4	5
		Bagheri Kalan (Contd.)	530	0.1663
			531	0.0792
			529	0.039
			527	0.1663
			526	0.0317
			525	0.0872
			524	0.0040
			520	0.0040
			521	0.1742
			522	0.031
			500	0.1663 <sup>7</sup>
			TOTAL	5.2272
		Zamuwas	639	0.0237
			640	0.0871
			378	0.1030
			377	0.0079
			TOTAL	0.2217
			G.TOTAL	9.9395

[No. L-14014/9/98-G.P.]

I. S. N. PRASAD, Dy. Secy.

नई दिल्ली, 10 दिसम्बर, 1998

का. आ. 2687.—केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित यह आवश्यक है कि राजस्थान राज्य में कांडला जामनगर-लोनी पाइपलाइन के माध्यम से तरल पेट्रोलियम गैस के परिवहन के लिए गैस अथॉरिटी ऑफ इंडिया लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए ;

और कि ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए इस अधिसूचना से उपाबद्ध अनुसूची में वर्णित भूमि के उपयोग के अधिकार का अर्जित करना आवश्यक है।

अतः, अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, उनमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति, राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध कराए जाने की तारीख से इक्कीस दिनों के भीतर, उसमें उपयोग के अधिकार का अर्जन या भूमि में पाइप लाइन बिछाने के संबंध में आक्षेप, लिखित रूप में सक्षम प्राधिकारी, गैस अथॉरिटी ऑफ इंडिया लिमिटेड कांडला-जामनगर-लोनी पाइपलाइन परियोजना, बी—21/ए, शिवमार्ग, बनी पार्क, जयपुर (राजस्थान)-16 को कर सकेगा।

## अनुसूची

जिला	तहसील	ग्राम	सर्वे नंबर	उ. का. आ. के लिए अर्जित की जाने वाली भूमि ( हेक्टेयर में )
1	2	3	4	5
अलवर	मुण्डावर	नांगल सन्तोकाडा	4	0.0079
			5	0.1030
			7	0.0079

1	2	3	4	5
	नांगल संतोकडा (जारी)	8		0.0554
		10		0.0317
		11		0.0079
		17		0.1505
		15		0.2178
		16		0.0396
			योग	0.6217
	पहल	663		0.1822
		664		0.0118
		665		0.1188
		669		0.0950
		668		0.2138
		667		0.0118
		676		0.0594
		677		0.1822
		680		0.0079
		692		0.0158
		691		0.2059
		693		0.3000
		694		0.0010
		696		0.1980
		697		0.1188
		698		0.1346
		702		0.0158
		703		0.0475
		704		0.0554
		705		0.0554
		706		0.0673
		775		0.2613
		776		0.1544
		778		0.1901
		781		0.0118
		784		0.0396
		786		0.1584
		787		0.1505
		790		0.0396
		791		0.2653
		792		0.0475
		799		0.1465
		800		0.0792
		815		0.0010
		847		0.0950



1	2	3	4	5
	नांगल संतोषडा (जारी)	846		0.2653
		844		0.3311
		838		0.0015
		839		0.2316
		829		0.0020
		836		0.2178
		834		0.0237
		962		0.0040
		963		0.1346
		557		0.0871
		556		0.1742
		555		0.3168
		566		0.2218
		565		0.2084
		570		0.0015
		571		0.1228
		572		0.1228
		568		0.0554
		575		0.0436
		576		0.0831
		578		0.1346
		577		0.0554
		582		0.0198
		583		0.1267
		584		0.0079
		521		0.0713
		520		0.1425
		519		0.1030
		516		0.1346
		515		0.1425
		513		0.0871
		512		0.0792
		511		0.1030
		510		0.1188
		508/509		0.1030
		507		0.1030
		503		0.0079
		505		0.0158
		257		0.1901
		256		0.1663
		255		0.2534
		254		0.2534
		253		0.0158
			योग	8.8228

1	2	3	4	5
	रानीठ		93	0.1901
			95	0.0079
			96	0.1663
			97	0.0158
			99	0.2059
			107	0.1980
			108	0.0040
			104	0.1267
			105	0.0040
			162	0.0713
			158	0.2376
			179	0.0158
			180	0.1584
			181	0.1584
			182	0.0040
			187	0.0158
			227	0.0317
			228	0.0316
			229	0.2297
			230	0.0198
			224	0.2698
			231	0.0079
			612	0.4118
			610	0.0713
			609	0.0554
			608	0.0792
			599	0.0158
			603	0.0040
			602	0.1426
			601	0.0871
			625	0.0871
			626	0.1267
			627	0.0871
			628	0.0158
			632	0.0158
			648	0.0158
			647	0.1901
			646	0.0554
			641	0.1663
			638	0.0634
			637	0.0025
			636	0.0767
			635	0.0871
			729	0.0158
			730	0.3445
			731	0.1980
			732	0.0950
			733	0.0950

1	2	3	4	5
		राजोठ (जारी)	734	0.0950
			735	0.2138
			योग	5.0846
	ततारपुर		804	0.0435
			792	0.2613
			793	0.0080
			789	0.2376
			777	0.1822
			778	0.0898
			776	0.0487
			779	0.0634
			760	0.2930
			750	0.0237
			1298	0.1188
			1299	0.0792
			1300	0.0317
			1301	0.0316
			1303	0.1148
			1304	0.1386
			1319	0.0079
			1307	0.0238
			1311	0.0712
			1310	0.0554
			1308	0.0010
			1309	0.1416
			721	0.2613
			701	0.1030
			702	0.1267
			698	0.1663
			686	0.0158
			688	0.1267
			687	0.0792
			682	0.1188
			680	0.1188
			681	0.0010
			672	0.1416
			671	0.2118
			664	0.0020
			665	0.0634
			632	0.0554
			511	0.0792
			518	0.0475
			519	0.0237
			521	0.0950
			522	0.0158

1	2	3	4	5
		मतारपुर(जारी)	521	0.1505
			525	0.0158
			526	0.1188
			527	0.1188
			453	0.0792
			528	0.1030
			610	0.0317
			529	0.0079
			374	0.0782
			380	0.0010
			373	0.0396
			372	0.0237
			371	0.0396
			370	0.0040
			363	0.1426
			362	0.0040
			364	0.0396
			361	0.0475
			355	0.0475
			354	0.0237
			353	0.0475
			352	0.0871
			351	0.1138
			400	0.0010
			347	0.0010
			344	0.0148
			312	0.1267
			311	0.0079
			313	0.2495
			318	0.0871
			317	0.0713
			324	0.0020
			325	0.1564
			326	0.1346
			327	0.0554
			328	0.1109
			1620	0.0554
			1622	0.0396
			1621	0.2138
			1626	0.0158
			1627	0.2297
			1625	0.0158
			1628	0.2693
			1629	0.0010
			1630	0.0554
			योग	7.1992
			कुल योग	21.7283

New Delhi, the 10th December, 1998

S.O. 2687.—whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of Liquid Petroleum Gas through Kandla—Jamnagar—Loni Pipeline Project in Rajasthan State, Pipeline should be laid by the Gas Authority of India Limited

And whereas, it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipeline (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein ;

Any person interested in the land described in the said schedule may within twenty one days from the date on which the copies of this notification, as published in the Gazette of India, are made available to the General Public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to the Competent Authority, Gas Authority of India Limited, Kandla—Jamnagar—Loni Pipeline Project, B-21/A, first floor, Shiv Marg, Bani park, Jaipur (Rajasthan).

## SCHEDULE

District	Tehsil	Village	Plot No.	Land to be acquired for ROU (in Hectare)
1	2	3	4	5
Alwar	Mundawar	Nangal Santokhara	4	0.0079
			5	0.1030
			7	0.0079
			8	0.0554
			10	0.0317
			11	0.0079
			17	0.1505
			15	0.2178
			16	0.0398
			TOTAL	0.6217
		Pehal	663	0.1822
			664	0.0118
			665	0.1188
			669	0.0950
			668	0.2138
			667	0.0118
			676	0.0594
			677	0.1822
			680	0.0079
			692	0.0158
			691	0.2059
			693	0.3000
			694	0.0010
			696	0.1980
			697	0.1188
			698	0.1346
			702	0.0158
			703	0.0475
			704	0.0554
			705	0.0554

1	2	3	4	5
		Pehal—Contd.	706	0.0673
			775	0.2613
			776	0.1544
			778	0.1901
			781	0.0118
			784	0.0396
			786	0.1584
			787	0.1505
			790	0.0395
			791	0.2653
			792	0.0475
			799	0.1465
			800	0.0792
			815	0.0010
			847	0.0950
			846	0.2653
			844	0.3311
			838	0.0015
			839	0.2316
			829	0.0020
			836	0.2178
			834	0.0237
			962	0.0040
			963	0.1346
			557	0.0871
			556	0.1742
			555	0.3168
			566	0.2218
			565	0.2084
			570	0.0015
			571	0.1228
			572	0.1228
			568	0.0554
			575	0.0436
			576	0.0831
			578	p.1346
			577	0.0554
			582	0.0198
			583	0.1267
			584	0.0079
			521	0.0713
			520	0.1425
			519	0.1030
			516	0.1346
			515	0.1425
			513	0.0871
			512	0.0792
			511	0.1030
			510	0.1188
			508/509	0.1030
			507	0.1030
			503	0.0079
			505	0.0158
			257	0.1901
			256	0.1663
			255	0.2534

1	2	3	4	5
		Pehal (Contd.)	254	0.2534
			253	0.0158
			<b>TOTAL</b>	<b>8.8228</b>
		Ranoth	93	0.1901
			95	0.0079
			96	0.1663
			97	0.0158
			99	0.2059
			107	0.1980
			108	0.0040
			104	0.1267
			105	0.0040
			162	0.0713
			158	0.2376
			179	0.0158
			180	0.1584
			181	0.1584
			182	0.0040
			187	0.0158
			227	0.0317
			228	0.0316
			229	0.2297
			230	0.0198
			224	0.2698
			231	0.0079
			621	0.4118
			610	0.0713
			609	0.0554
			608	0.0792
			599	0.0158
			603	0.0040
			602	0.1426
			601	0.0871
			625	0.0871
			626	0.1267
			627	0.0871
			628	0.0158
			632	0.0158
			648	0.0158
			647	0.1901
			646	0.0554
			641	0.1663
			638	0.0634
			637	0.0025
			636	0.0767
			635	0.0871
			729	0.0158
			730	0.3445
			731	0.1980
			732	0.0950
			733	0.0950
			734	0.0950
			735	0.2138
			<b>TOTAL</b>	<b>5.0846</b>

1	2	3	4	5
		Tatapur	804	0.0435
			792	0.2613
			793	0.0080
			789	0.2376
			777	0.1822
			778	0.0898
			776	0.0487
			779	0.0634
			760	0.2930
			750	0.0237
			1298	0.1188
			1299	0.0792
			1300	0.0317
			1301	0.0316
			1303	0.1148
			1304	0.1386
			1319	0.0079
			1307	0.0237
			1311	0.0712
			1310	0.0554
			1308	0.0010
			1309	0.1416
			721	0.2613
			701	0.1030
			702	0.1267
			698	0.1663
			686	0.0158
			688	0.1267
			687	0.0792
			682	0.1188
			680	0.1188
			681	0.0010
			672	0.1416
			671	0.2118
			664	0.0020
			665	0.0634
			632	0.0554
			511	0.0792
			518	0.0475
			519	0.0237
			521	0.0950
			522	0.0158
			524	0.1505
			525	0.0158
			526	0.1188
			527	0.1188
			453	0.0792
			528	0.1030
			610	0.0317
			529	0.0079
			374	0.0782
			380	0.0010
			373	0.0396
			372	0.0237
			371	0.0396
			370	0.0040



1	2	3	4	5
		Tatarpur (Contd.)	363	0.1426
			362	0.0040
			364	0.0396
			361	0.0475
			355	0.0475
			354	0.0237
			353	0.0475
			352	0.0871
			351	0.1138
			400	0.0010
			347	0.0010
			344	0.0148
			312	0.1267
			311	0.0079
			313	0.2495
			318	0.0871
			317	0.0713
			324	0.0020
			325	0.1564
			326	0.1346
			327	0.0554
			328	0.1109
			1620	0.0554
			1622	0.0396
			1621	0.2138
			1626	0.0158
			1627	0.2297
			1625	0.0158
			1628	0.2693
			1629	0.0010
			1630	0.0554
		TOTAL		7.1992
		G. TOTAL		21.7283

[No. L-14014/9/98-G.P.]

I. S. N. PRASAD, Dy. Secy.

नई दिल्ली, 10 दिसम्बर, 1998

का. भा. 2688 :—केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि राजस्थान राज्य में कांडला-जामनगर-लोणी पाइपलाइन के माध्यम से तरल पेट्रोलियम गैस के परिवहन के लिए गैस अथॉरिटी ऑफ इंडिया लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए ;

और कि ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए इस अधिसूचना से उपाबद्ध अनुसूची में वर्णित भूमि के उपयोग के अधिकार का अर्जन करना आवश्यक है ;

अतः, अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 ( 1962 का 50 ), की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उनमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

उक्त अनुसूची में वर्णित भूमि में हितरुद्ध कोई व्यक्ति, राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध कराए जाने की तारीख से इक्कीस दिनों के भीतर, उसमें उपयोग के अधिकार का अर्जन या भूमि में पाइपलाइन बिछाने के संबंध में आक्षेप, लिखित रूप में सशम प्राधिकारी, गैस अथॉरिटी ऑफ इंडिया लिमिटेड, कांडला-जामनगर-लोणी पाइपलाइन परियोजना बी—21/ए, शिवमन्थ बनी पार्क, जयपुर ( राजस्थान ) —16 को कर सकेगा।

## अनुसूची

जिला	तहसील	ग्राम	सर्वे नम्बर	उ. का. अ. के. लिए अर्जित की जाने वाली भूमि ( हेक्टेयर में )
1	2	3	4	5
अलवर	कोटकासिम	करवार	872	0.0015
			874	0.1096
			875	0.2604
			877	0.0010
			878	0.1108
			879	0.0396
			880	0.0396
			881	0.0396
			882	0.0950
			886	0.1030
			888	0.0554
			889	0.0040
			933	0.0703
			890	0.0010
			968	0.0158
			967	0.0314
			966	0.0554
			965	0.1070
			964	0.1188
			963	0.0950
			962	0.0594
			961	0.0317
			960	0.0832
			958	0.435
			957	0.0515
			956	0.0950
			952	0.0792
			951	0.0475
			950	0.0237
			949	0.0237
			948	0.0871
			945	0.1980
			944	0.0871
			943	0.0475
			942	0.0079
			941	0.0475
			940	0.0158
			939	0.0010
			1035	0.2356
			1043	0.0010

1	2	3	4	5
अलवर	कोटकासिम	करवार	1042	0.1109
			1038	0.0158
			1039	0.0317
			1040	0.0480
			1041	0.0079
			1019	0.0237
			1190	0.1466
			1192	0.0237
			1193	0.0317
			1187	0.0752
			1185	0.0792
			1183	0.0079
			1053	0.0158
			1106	0.0792
			1101	0.0633
			1100	0.0396
			1099	0.0554
			1098	0.0515
			1080	0.0554
			1081	0.0515
			1083	0.0356
			1082	0.0158
			1088	0.0396
			188	0.0357
			196	0.0079
			187	0.0515
			186	0.0633
			185	0.0554
			184	0.1252
			182	0.0015
			198	0.0317
			199	0.633
			137	0.0118
			114	0.1584
			115	0.1188
			118	0.0716
			117	0.2138
			120	0.1743
			121	0.0792
			122	0.3010
			126	0.0079
कुल योग				5.3064

[सं. एन.-14014/9/98-जी. पी.]

आई. एस. एन. प्रसाद, उप सचिव

New Delhi, the 10th December, 1998

S.O. 2688.—whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of Liquid Petroleum Gas through Kandla—Jamnagar—Loni Pipeline Project in Rajasthan State, Pipeline should be laid by the Gas Authority of India Limited;

And whereas, it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipeline (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said schedule may within twenty one days from the date on which the copies of this notification, as published in the Gazette of India, are made available to the General Public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to the Competent Authority, Gas Authority of India Limited, Kandla—Jamnagar—Loni Pipeline Project, B-21/A, first floor, Shiv Marg, Bani Park, Jaipur (Rjaasthan).

## SCHEDULE

Distt.	Tehsil	Village	Survey No.	Land to be acquired for ROU in hectare
1	2	3	4	5
Alwar	Kotkasim	Karwar	872	0.0015
			874	0.1096
			875	0.2604
			877	0.0010
			878	0.1188
			879	0.0396
			880	0.0396
			881	0.0396
			882	0.0950
			886	0.1030
			888	0.0554
			889	0.0040
			933	0.0703
			890	0.0010
			968	0.0158
			967	0.0314
			966	0.0554
			965	0.1070
			964	0.1188
			963	0.0950
			962	0.0594
			961	0.0317
			960	0.0832
			958	0.0435
			957	0.0515
			956	0.0950
			952	0.0792
			951	0.0475
			950	0.0237
			949	0.0237
			948	0.0871
			945	0.1980
			944	0.0871
			943	0.0475

1	2	3	4	5
			942	0.0079
			941	0.0475
			940	0.0158
			939	0.0010
			1035	0.2356
			1043	0.0010
			1042	0.1109
			1038	0.0158
			1039	0.0317
			1040	0.0480
			1041	0.0079
			1019	0.0237
			1190	0.1466
			1192	0.0237
			1193	0.0317
			1187	0.0752
			1185	0.0792
			1183	0.0079
			1053	0.0158
			1106	0.0792
			1101	0.0633
			1100	0.0396
			1099	0.0554
			1098	0.0515
			1080	0.0554
			1081	0.0515
			1083	0.0356
			1082	0.0158
			1088	0.0396
			188	0.0357
			196	0.0079
			187	0.0515
			186	0.0633
			185	0.0554
			184	0.1252
			182	0.0015
			198	0.0317
			199	0.0633
			137	0.0118
			114	0.1584
			115	0.1188
			118	0.0716
			117	0.2138
			120	0.1743
			121	0.0792
			122	0.3010
			126	0.0079
			TOTAL	5.3064

[No. L-14014/9/98-G.P.]

I. S. N. PRASAD, Dy. Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य विभाग)

आदेश

नई दिल्ली, 2 दिसम्बर, 1998

का.आ. 2689.—भारत सरकार, स्वास्थ्य और परिवार कल्याण मंत्रालय (स्वास्थ्य विभाग) को दिनांक 13 जून, 1996 की अधिसूचना संख्या बी 11016/5/95-एम.ई. (यू. जी.) के संदर्भ में भारतीय आयुर्विज्ञान परिषद अधिनियम 1956 (1956 का 102) के प्रयोजनों के लिए सेंट जार्ज यूनिवर्सिटी स्कूल ऑफ मेडिसिन ग्रेनेडा, वैंस्ट्रैंड्जीज द्वारा प्रदत्त चिकित्सीय अर्हता एम.डी. को मान्यता प्रदान करते हुए, केन्द्रीय सरकार धारा 14 की उपधारा (1) के उपबन्ध द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निर्देश देती है कि उक्त अर्हता को धारण करने वाले अमरीकी नागरिक डा. राहुल मल्होत्रा का चिकित्सा व्यवसाय मल्होत्रा हार्ट इंस्टीट्यूट और मेडिकल रिसर्च सेन्टर, प्राइवेट लिमिटेड, 14 रिंग रोड, लाजपत नगर-IV, नई दिल्ली के लिए इस अधिसूचना के जारी होने के दिनांक से एक वर्ष की अवधि अथवा पूर्तकार्य के प्रयोजन हेतु न कि वैयक्तिक लाभ के लिए किसी अस्पताल में उनकी सेवा की अवधि जो भी कम हो, तक ही सीमित रहेगा।

[सं. बी. 11016/5/95-एम.ई. (यू जी.)]

एस० के० मिश्र, डेस्क अधिकारी

## MINISTRY OF HEALTH AND FAMILY

## WELFARE

(Department of Health)

## ORDER

New Delhi, the 2nd December, 1998

S.O. 2689.—With reference to the notification of Government of India, Ministry of Health & Family Welfare (Department of Health) No. V. 11016/5/95-ME(UG), dated the 13th June, 1996 according recognition of the medical qualification, M.D. granted by the St. George's University School of Medicine Grenada, West Indies for the purposes of Indian Medical Council Act, 1956 (102 of 1956), the Central Government in exercise of the powers conferred by provision to sub-section (1) of the section 14 directs that the medical practice by Dr. Rahul Malhotra, an American Citizen possessing the said qualification, shall be limited to the institution of

Malhotra Heart Institute and Medical Research Centre Pvt. Ltd. 14, Ring Road, Lajpat Nagar-IV, New Delhi for a period of one year from the date of issue of this notification or for the duration of his assignment with a hospital for purposes of charitable work and not for personal gain whichever is shorter.

[No. V. 11016/5/95-ME(UG)]

S. K. MISHRA, Desk Officer

विज्ञान और प्रौद्योगिकी मंत्रालय

(विज्ञान और प्रौद्योगिकी विभाग)

नई दिल्ली, 8 दिसम्बर, 1998

का.आ. 2690.—केन्द्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेवखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, नीचे दी गई सारणी के स्तम्भ (1) में उल्लिखित अधिकारी को, जो सरकार का राजपत्रित अधिकारी है, उक्त अधिनियम के प्रयोजनों के लिए सम्पदा अधिकारी नियुक्त करती है, जो उक्त सारणी के स्तम्भ (2) में विनिर्दिष्ट सरकारी स्थानों की बाबत, उक्त अधिनियम द्वारा या उसके अधीन प्रदत्त शक्तियों का प्रयोग और उस पर अधिरोपित कर्तव्यों का पालन अपनी अधिकारिता की स्थानीय सीमाओं के भीतर करेगा :—

सारणी

अधिकारी का पदनाम	अधिकारिता की स्थानीय सीमाएं
(1)	(2)
उप निदेशक (प्रशासन) वायु सर्वेक्षण नई दिल्ली	पालम, नई दिल्ली में स्थित भारतीय सर्वेक्षण के या उसके द्वारा या उसकी ओर से पट्टे पर लिए गए या अधिग्रहित किए गए सभी परिसर

[फा. सं. एस.एम./29/018/98]

एस. चक्रवर्ती, डेस्क अधिकारी

## MINISTRY OF SCIENCE AND TECHNOLOGY

## TABLE

(Department of Science and Technology)

New Delhi, the 8th December, 1998

S.O. 2690.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971 (40 of 1971) the Central Government hereby appoints the officer mentioned in column (1) of the Table below, being a Gazetted Officer of Government to be an estate officer for the purposes of said Act who shall exercise the powers conferred and perform duties imposed by or under the said Act within local limits of his jurisdiction in respect of the public premises specified in Column (2) of the said Table :—

Designation of the officer	local limits of jurisdiction
1	2
Deputy Director (Administration) Survey Air New Delhi.	All premises belonging to or taken on lease or requisitioned by or on behalf of the Survey of India and located at Palam New Delhi.

[File No. SM/29/018/98]  
S. CHAKRAVARTHY, Desk Officer

## कोयला संस्थालय

नई दिल्ली, 8 दिसम्बर, 1998

का.प्रा. 2691.—केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपाययुक्त अनुसूची में उल्लिखित भूमि में कोयला अधिप्राप्त किये जाने की संभावना है,

अतः, अब, केन्द्रीय सरकार कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम 1957 (1957 का 20) की (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस क्षेत्र में, कोयले का पर्वक्षण करने के अपने आशय की सूचना देती है।

इस अधिसूचना के अन्तर्गत आने वाले रेखांक संख्या बी-1(ई)/3/एफयूआर-632/0897 तारीख 20 अगस्त, 1997 का निरीक्षण वेस्टर्न कोलफील्ड्स लिमिटेड (राजस्व विभाग), कोयला इस्टेट, सिविल लाइन्स, नागपुर-440001 (महाराष्ट्र) के कार्यालय में या कलकटर, नागपुर (महाराष्ट्र) के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाउस, स्ट्रीट, कलकत्ता के कार्यालय में किया जा सकता है।

इस अधिसूचना के अन्तर्गत आने वाली भूमि में, हितवन्त सभी व्यक्ति उक्त अधिनियम की धारा 13 के उपधारा (7) में निरदिष्ट सभी नक्शों, चाटों और अन्य दस्तावेजों को इस अधिसूचना के प्रकाशन की तारीख से 90 दिन के भीतर भारसाधक अधिकारी/विभागाध्यक्ष (राजस्व) वेस्टर्न कोलफील्ड्स लिमिटेड, कोल इस्टेट, सिविल लाइन्स, नागपुर-440001 (महाराष्ट्र) को भेज सकेंगे।

## अनुसूची

मकर ठोकरा 3 खंड

उमरेर क्षेत्र

जिला-नागपुर

महाराष्ट्र

रेखांक सं.सी-1(ई)/3/एफयूआर/632-0897 तारीख 20 अगस्त, 1997

क्रम सं.	ग्राम का नाम	पटवारी सकिल सं.	तहसील	जिला	क्षेत्र हेक्टेयर में	टिप्पणियां
1	2	3	4	5	6	7
1.	कांहुवा	22	उमरेर	नागपुर	7.00	भाग
2.	सलाई महालगांव	43	उमरेर	नागपुर	7.00	भाग

1	2	3	4	5	6	7
3.	धमन गांव	23	उमरेर	नागपुर	10.00	भाग
4.	खुरसापार	23	उमरेर	नागपुर	8.00	भाग
5.	सीरपुर	22	उमरेर	नागपुर	235.00	भाग
6.	कटारा	22	उमरेर	नागपुर	190.00	भाग
7.	बोपेश्वर	17	उमरेर	नागपुर	45.00	भाग
8.	मकाराढोकरा	17	उमरेर	नागपुर	500.00	भाग
9.	सुकली	16	उमरेर	नागपुर	290.00	भाग
10.	डाहेगांव	16	उमरेर	नागपुर	18.00	भाग

कुल क्षेत्रफल 1310.00 (हेक्टेयर) (लगभग)

या 3237.14 एकड़ (लगभग)

## सीमा वर्णन

- क—ख रेखा बिन्दु "क" से आरम्भ होती है और ग्राम कन्हवा और सलाई महल गांव की सम्मिलित ग्राम सीमा के साथ साथ जाती है इसके पश्चात् ग्राम सलाई महल गांव धमन गांव और खुरसापार से होकर आगे बढ़ती है और बिन्दु "ख" पर मिलती है।
- ख—ग—घ—ङ रेखा ग्राम खुरसापार, सीरपुर, कटारा, मुकाटोकरा से होते हुए जाती है तत्पश्चात् ग्राम—डाहेगांव से होकर आगे बढ़ती है और बिन्दु "ङ" पर मिलती है।
- ङ—च रेखा ग्राम डाहेगांव से होते हुए जाती है तत्पश्चात् ग्राम सुकली से होकर आगे बढ़ती है और बिन्दु "च" पर मिलती है।
- च—क रेखा ग्राम सुकली, मकाराढोकरा, बोपेश्वर, कटारा, सीरपुर से होते हुए जाती है तत्पश्चात् ग्राम कन्हवा से होकर आगे बढ़ती है और आरम्भिक बिन्दु "क" पर मिलती है।

[सं. 43015/18/98—पी.आर.आई.डब्ल्यू.]

के.एस. क्रोफा, निदेशक

## MINISTRY OF COAL

New Delhi, the 8th December, 1998

S.O. 2691.—Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule hereto annexed;

Now, therefore, in exercise of the powers conferred by sub-section(1) of Section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal therein.

The plan bearing No. C-I(E)III/FUR/632-0897 dated the 20th August, 1997 of the area covered by this notification can be inspected in the office of the Western Coalfields Limited (Revenue Department), Coal Estate, Civil Lines, Nagpur-440 001 (Maharashtra) or in the office of the Collector, Nagpur (Maharashtra) or in the office of the Coal Controller, 1, Council House Street, Calcutta.

All persons interested in the lands covered by this notification may deliver all maps, charts and other documents referred to in sub-section (7) of Section 13 of the said Act to the Officer-in-Charge/Head of the Department (Revenue), Western Coalfields Limited, Coal Estate, Civil Lines, Nagpur-440 001 (Maharashtra) within ninety days from the date of publication of this notification.



## SCHEDULE

## MAKARDHOKRA-III BLOCK

## UMRER AREA

## DISTRICT NAGPUR

## MAHARASHTRA

[Plan No. C-I(E)III/FUR/632-0897 dated the 20th August, 1997]

Sl. No.	Name of village	Patwari circle number	Tahsil	District	Area in hectares	Remarks
1.	Kanhwa	22	Umrer	Nagpur	7.00	Part
2.	Salai Mahalgaon	43	Umrer	Nagpur	7.00	Part
3.	Dhamangaon	23	Umrer	Nagpur	10.00	Part
4.	Khursapar	23	Umrer	Nagpur	8.00	Part
5.	Sirpur	22	Umrer	Nagpur	235.00	Part
6.	Katara	22	Umrer	Nagpur	190.00	Part
7.	Bopeswar	17	Umrer	Nagpur	45.00	Part
8.	Makardhokra	17	Umrer	Nagpur	500.00	Part
9.	Sukli	16	Umrer	Nagpur	290.00	Part
10.	Dahegaon	16	Umrer	Nagpur	18.00	Part

Total area: 1310.00 hectares  
(approximately)  
or  
3237.14 acres  
(approximately)

## Boundary description :

- A—B Line starts from point 'A' and passes along the common village boundary of villages Kanhwa and Salai Mahalgaon, then proceeds through villages Salai Mahalgaon, Dhamangaon and Khursapar and meets at point 'B'.
- B—C—D—E Line passes through villages Khursapar, Sirpur, Katara, Makardhokra, then proceeds through village Dahegaon and meets at point 'E'.
- E—F Line passes through village Dahegaon, then proceeds through village Sukli and meets at point 'F'.
- F—A Line passes through villages Sukli, Makardhokra, Bopeswar, Katara, Sirpur, then proceeds through village Kanhwa and meets at starting point 'A'.

[No. 43015/18/98-PRIW]

K.S. KROPHA, Director

नई दिल्ली, 11 दिसम्बर, 1998

का.अ. 2692.—केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपाखण्ड अनुसूची में सम्मिलित भूमि में कोयला अभिप्राप्त किये जाने की सम्भावना है,

अतः, अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस क्षेत्र में कोयला का पूर्वेक्षण करने के आशय की सूचना देती है,

उस अधिसूचना के अन्तर्गत आने वाले क्षेत्र के रेखांक सं. सी-I(ई)/III/जर्जेंटपार/635-0897, तारीख 16 सितम्बर 1997 का निरीक्षण वैस्टर्न कोल फील्ड्स लिमिटेड (राजस्व अनुभाग) कोल इन्स्टेट, सिविल लाइन्स, नागपुर-440001 (महाराष्ट्र) के कार्यालय में, या कोयला नियंत्रक, 1, काउन्सिल हाउस स्ट्रीट कलकत्ता के कार्यालय में किया जा सकता है।

इस अधिसूचना के अन्तर्गत आने वाली भूमि में, हितबद्ध सभी व्यक्तियों, उक्त अधिनियम की धारा 13 की उपधारा (7) में विनिर्दिष्ट सभी नक्शों, चार्टों और अन्य दस्तावेजों को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से 90 दिन के भीतर भारसाधक अधिकारी/विभागाध्यक्ष (राजस्व) वेस्टर्न कोल फ़िल्ड्स लिमिटेड, कोल इस्टेट, सिविल लाइन्स, नागपुर-440001 (महाराष्ट्र) को भेजेंगे।

अनुसूची

खिखल गांव खंड

उत्तरी बर्गी क्षेत्र

जिला यवतमाल (महाराष्ट्र)

रेखांक सं.—सी-1(ई)/III/जेजेएनआर 635-0997 तारीख 16 सितम्बर, 1997

क्रम सं.	ग्राम का नाम	ग्राम सं.	तहसील	जिला	क्षेत्र हैक्टेयर में	टिप्पणियां
1.	कलमना	31	बणी	यवतमाल	27.50	भाग
2.	खिखलगांव	105	बणी	यवतमाल	620.00	भाग
3.	बणी	337	बणी	यवतमाल	57.00	भाग
4.	गणेशपुर	79	बणी	यवतमाल	160.00	भाग
5.	परसोडा	194	बणी	यवतमाल	65.00	भाग
कुल क्षेत्र				923.50 हैक्टेयर (लगभग)		
या				2282.06 एकड़ (लगभग)		

सीमा वर्णन

- क—ख रेखा बिन्दु "क" से प्रारम्भ होती है और ग्राम परसोनी और परसोडा, मुरधानी और खिखलगांव की सम्मिलित सीमा के साथ जाती है; तथा बिन्दु "ख" पर मिलती है।
- ख—ग रेखा ग्राम खिखलगांव और गणेशपुर की सम्मिलित सीमा के साथ होती है ग्राम गणेशपुर की ओर बढ़ती है और बिन्दु "ग" पर मिलती है।
- ग—घ रेखा ग्राम गणेशपुर से होते हुए, तत्पश्चात् ग्राम बणी से आगे बढ़ती हुई बिन्दु "घ" पर मिलती है।
- घ—ङ रेखा ग्राम बणी से होते हुए, फिर ग्राम बणी और खिखलगांव की सम्मिलित सीमा के साथ आगे बढ़ती है और बिन्दु "ङ" पर मिलती है।
- ङ—च रेखा ग्राम खिखलगांव से होती हुई जाती है और रेल लाइन की बाहरी सीमा के साथ ग्राम कलमना की ओर आगे बढ़ती है तथा बिन्दु "च" पर मिलती है।
- च—क रेखा ग्राम कलमान से होते हुए, तत्पश्चात् विद्यमान पट्टे पर ली गई राजूर कोयला खान के साथ-साथ आगे बढ़ती है फिर ग्राम खिखलगांव और परसोडा होती हुई प्रारंभिक बिन्दु "क" पर मिलती है।

[सं. 43015/17/98-पी.आर.आई. डब्ल्यू]

के.एस. क्रोफा, निदेशक

New Delhi, the 11th December, 1998

S.O.2692.—Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule hereto annexed;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal therein.

The plan bearing No. C-I (E)/III/JJNR/635-0997, dated the 16th September, 1997 of the area covered

by this notification can be inspected in the office of the Western Coalfields Limited (Revenue Department) Coal Estate Civil Lines, Nagpur-44000 (Maharashtra) or in the office of the Collector, Yavatmal (Maharashtra) or in the office of the Coal Controller 1, Council House Street, Calcutta.

All persons interested in the lands covered by this notification may deliver all maps, charts and other documents referred to in sub-section (7) of section 13 of the said Act to the Officer-in-Charge/Head of the Department (Revenue), Western Coalfields Limited, Coal Estate, Civil Lines, Nagpur-440001 (Maharashtra) within ninety days from the date of publication of this notification.

**SCHEDULE**  
**CHIKHALGAON BLOCK**  
**WANI NORTH AREA**  
**DISTRICT YAVATMAL (MAHARASHTRA)**

(Plan No. C-I(E)/III/JJNR/635-0997, dated the 16th September, 1997)

Sl. No.	Name of Village	Village number	Tahsil	District	Area in hectares	Remarks
1.	Kalmana	31	Wani	Yavatmal	27.50	Part
2.	Chikhalgaon	105	Wani	Yavatmal	620.00	Part
3.	Wani	337	Wani	Yavatmal	51.00	Part
4.	Ganeshpur	79	Wani	Yavatmal	160.00	Part
5.	Parsoda	194	Wani	Yavatmal	65.00	Part

Total area : 923.450 hectares  
 (approximately)  
 or  
 2282.06 acres  
 (approximately)

**Boundary description :**

- A—B Line starts from point 'A' and passes along the common boundary of villages Parsoni and Parsoda, Murdhani and Chikhalgaon and meets at point 'B'.
- B—C Line passes along the common boundary of villages Chikhalgaon and Ganeshpur, then proceeds through village Ganeshpur and meets at point 'C'.
- C—D Line passes through village Ganeshpur, then proceeds village Wani and meets at point 'D'.
- D—E Line passes through village Wani, then proceeds along the common boundary of villages Wani and Chikhalgaon and meets at point 'E'.
- E—F Line passes through village Chikhalgaon and proceeds through village Kalmana along the outer boundary of Railway line and meets at point 'F'.
- F—A Line passes through village Kalmana, then proceeds along the existing leasehold boundary of Rajur Colliery then passes through village Chikhalgaon and Parsoda and meets at starting point.

[No. 43015/17/98-PRIW]  
 K. S. KROPHA, Director

नई दिल्ली, 11 दिसम्बर, 1998

का.आ. 2693.—केन्द्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के कोयला मंत्रालय की अधिलेखना सं. का.आ. 1857, तारीख 24 जन, 1994 का निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त अधिलेखना की सारणी में, क्रम सं. 42 और उसमें सम्बन्धित प्रविष्टियों के पश्चात् निम्नलिखित जोड़ा जायेगा, अर्थात् :—

1	2
43. महाप्रबंधक (कार्मिक) मुख्यालय वैस्टर्न कोल फील्ड्स लिमिटेड, डाकघर-कोल हस्टेट, सिविल लाइन्स, नागपुर, पिन-440001, जिला-नागपुर, महाराष्ट्र राज्य।	वैस्टर्न कोल फील्ड्स लिमिटेड (मुख्यालय) के निम्नलिखित, सभी स्थानों पर— (1) कोल सम्पदा कार्यालय और टाऊनशिप कमप्लेक्स, सिविल लाइन्स, नागपुर, पिन-440001

1

2

3

4

5

(2) इन्दोरा कॉम्प्लेक्स जिसमें इन्दोरा नागपुर, पिन 440001 स्थित टाउनशिप, खान बचाव स्टेशन, अनसन्धान और परीक्षण सम्बन्धी प्रयोगशाला सम्मिलित है।

(3) विसेसरा भवन, मन्दिर मार्ग सिविल लाईन, नागपुर-पिन 440001 स्थित अतिथि गृह और कार्यालय स्थान

(4) कर्मचारी प्रशिक्षण संस्थान, माओगी मिने यावतमल मार्ग, वर्धा पिन 442002 और वेस्टर्न कोलफील्ड्स लिमिटेड (मुख्यालय) नागपुर, पिन 440001 से संबंधित या उसके नियंत्रणाधीन अन्य परिसर

[सं. 43022/5/93-एल.एस. इन्ट्यू./पी.आर.आई. इन्ट्यू]  
के.एस. क्रोफा, निदेशक

New Delhi, the 11th December, 1998

S.O.2693.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Coal number S.O. 1857, dated the 24th June, 1994, namely:—

In the Table to the said notification, after serial number 42 and the entries relating thereto, the following shall be added, namely:—

1	2
43. General Manager (Personnel) Headquarters, Western Coalfields Limited, Post Office Coal Estate, Civil Lines, Nagpur-PIN 440 001, District Nagpur, Maharashtra State.	All premises of Western Coalfields Limited (Headquarters) at— (1) Coal Estate Office and Township Complex, Civil Lines, Nagpur, PIN : 440 001. (2) Indora Complex, consisting of Township, Mines Rescue Station, Investigation and Testing Laboratory, situated at Indora, Nagpur, PIN : 440 001. (3) Guest House and Office Premises at Biscar House, Temple Road, Civil Lines, Nagpur, PIN: 440 001. (4) Workers' Training Institute, Saongi Megha, Yevatmal Road, Wardha, PIN : 442 002. and other premises belonging to, or under the control of Western Coalfields Limited (Headquarters), Nagpur, PIN: 440 001.

[No. 43022/5/93-LSW/PRIW]

K.S. KROPHA, Director

## संचार मंत्रालय

(दूरसंचार विभाग)

(राजभाषा अनुभाग)

नई दिल्ली, 13 नवम्बर, 1998

का.आ. 2694.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग (नियम 1976 के नियम 10(4) के अनुसरण में संचार मंत्रालय, दूरसंचार विभाग के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालयों को, जिनमें 80% से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है।

पूर्वी उत्तर प्रदेश परिमंडल, लखनऊ

1. दूरसंचार जिला प्रबंधक, बहराइच/बाराबंकी
2. उप मंडलीय अभियन्ता, फोन्स, बाराबंकी
3. उप मंडलीय अभियन्ता (समग्र दूरभाष) हैदरगढ़/रूधौली/रामस्नेही घाट/फतेहपुर।

4. दूरभाष केन्द्र-बाराबंकी/बरेठी/भानमऊ/देवाशरीफ/हरख/जहांगीराबाद/जकरिया मसौली/सफदरजंग/सतरीख/उधौली/जैबपुर/बेलहरा/फतेहपुर/कुर्सी/सुधियामऊ/बदनपर (गनेशपुर) बुद्धवल (रामनगर)महादेवा/रानी बाजार/सूरतगंज/त्रिलोकपुर/असन्ना/हैदरगढ़/कोठी/सिद्धौर/मुवेहा/दरियाबाद/देवीगंज/कोटवा मंडक/गवई/रामस्नेही घाट/सादतगंज/सैदनपुर/सिरोली/गोसपुर/टिकैतनगर/नेवरा/पटरंगा/पुरेडलई/रूधौली/शुजागंज/अलियाबाद।

5. दूरसंचार केन्द्र :—देवाशरीफ/रामस्नेही घाट/रूधौली

6. उप मंडलीय अधिकारी फोन्स, बहराइच

8. उप मंडलीय अधिकारी ग्रुप एक्सचेंज, नानपारा

8. उप मंडलीय अधिकारी, ग्रुप एक्सचेंज, केसरगंज

[सं. ई-11016/1/98-रा.भा.]

आर. डी. मासीवाल, निदेशक (राजभाषा)

MINISTRY OF COMMUNICATIONS

(Department of Telecommunications)

(Official Language Section)

New Delhi, the 13th November, 1998

S.O. 2694.—In pursuance of rule 10(4) of the Official Language (use for official purposes of the union), rules, 1976 the Central Government hereby notifies following offices under the administrative control of Ministry of Communications, Department of Telecommunications where of more than 80 per cent staff have acquired working knowledge of Hindi.

3354 GI/98—10

Uttar Pradesh Telecom. Circle (East) Lucknow

1. Telecom District Manager, Behraich/Barabanki.
2. Sub Divisional Engineer. Phones, Barabanki.
3. Sub Divisional Engineer (Group Telephone) Haidergarh/Rudauli/Ram Sanahi Ghat/Fatehpur.
4. Telecom Centre—Barabanki | Barethi | Bhanmau | Devasharif | Harakh | Jahan-girabad | Jakaria Masauli | Safdarjung | Satrikh | Udhali | Jaidpur | Belhara | Fatehpur | Kursi | Sudhiamau | Badaupur | Ganeshpur | Budhwal/Ram Nagar/Mahadeva/Rani Bazar | Surat Ganj | Trilokpur | Asandra | Haider Garh | Kothi | Sidhour | Subeha | Dariabad | Devi Ganj | Kotwa Sarak | Gavai | Ramsanehi Ghat | Sadat Ganj | Saidanpur | Sirouli | Gauspur | Tikaitnagar | Nevra | Patranga | Pure-dalai | Rudauli | Shuja Ganj | Aliabad.
5. Telecom Centre—Devasharif/Ramsanehi Ghat/Rudauli.
6. Sub Divisional Officer Phones. Beharich.
7. Sub Divisional Officer Group Exchange, Nanpara.
8. Sub Divisional Officer, Group Exchange, Kesar Ganj.

[No. E-11016/1/98-O.L.]

R.D. MASIWAL, Director (O.L.)

श्रम मंत्रालय

नई दिल्ली, 1 दिसम्बर, 1998

का.आ. 2695.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी. सी. सी. एल. के प्रवर्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 2) धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-12-98 को प्राप्त हुआ था।

[सं. एल-20012/220/92-आई. प्रार. (सी-I)]

श्याम सुन्दर गुप्ता, डेप्टी अधिकारी

MINISTRY OF LABOUR

New Delhi, the 1st December, 1998

S.O. 2695.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 2),

Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. B.C.C.L. and their workman, which was received by the Central Government on 1-12-98.

[No. 1-20012/220/92-IR (C-I)]

S. S. GUPTA, Desk Officer

#### ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL (NO. 2) AT  
DHANBAD**

#### PRESENT:

Shri B. B. Chatterjee, Presiding Officer.

In the matter of an Industrial Dispute under  
Section 10(1) (d) of the I.D. Act, 1947.  
Reference No. 6 of 1994

#### PARTIES:

Employers in relation to the management of  
Sihua Area of M/s. B.C.C.L. and their  
workmen.

#### APPEARANCES:

On behalf of the workmen—Shri D. Mukherjee,  
Advocate and Shri K. Chakravorty, Advoca-  
cate.

On behalf of the employers—Shri B. M. Prasad,  
Advocate.

STATE : Bihar. INDUSTRY : Coal

Dated, Dhanbad, the 10th November, 1998

#### AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) and sub-section 2(k) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L 20012/220/92-IR (Coal-I), dated, the 23rd November, 1993.

#### SCHEDULE

“Whether the action of the management in superannuating Smt. Sarojani Tudoo, Staff Nurse, Lovabad Central Hospital of M/s. Bhart Coking Coal Ltd. w.e.f. 11-8-91 instead of 30-3-1997, is justified? If not, to what relief the workman is entitled?”

2. The concerned workman Smt. S. Tudoo as made out a case in her W. S. which may be stated as follows.

Smt. Tudoo was working as Staff Nurse at Lovabad Central Hospital under Sihua area of M/s. B.C.C.L. She was appointed on 1-10-64 and her date of birth as well as other particulars were recorded in the prescribed register as required under Section 48 and sub-section (1) of the Mines Act as amended subsequently. Her date of birth as recorded at the time of her initial appointment was 30.3.1927 which was duly entered in the Form B Register, I.D. Card and Coal Mines P.F. Records.

3. The management of CIL took a policy decision to serve service excerpt to all the employees with a view to avoid/eliminate all dispute in respect of service matters such as date of employment, date of birth, nomination under C.M.P.F. etc. and by such service of service excerpt invited objections for the purpose of correction if any and those workers who disputed their age as indicated by the management in service excerpt or service abhilekh were sent to the Medical Board for assessment of their age and after such examination the assessed age was entered in the record and in case of other workmen who did not raise any such dispute their records were computerised once for all and in this way seva abhilekh was also issued to the concerned workman Smt. Tudoo wherein her date of birth was mentioned as 30-3-37 and as no objection was raised on the side of the workman the same was computerised in the year 1989-90. The date of birth was entered in the statutory register of different workman of the establishment under BCCL and the same is the sole evidence in respect of the age of a particular workman under clause 37.0(v) of the Certified Standing Orders. But inspite of all these the management illegally and arbitrarily issued notice to the concerned workman Smt. Tudoo intimating her that she would retire from service with effect from 11-8-91. The concerned workman opposed such arbitrary action of the management and an industrial dispute was also raised before the ALC(C), Dhanbad which was registered as 1/342/91 E III. The management inspite of service of notice by the ALC(C) did not cooperate in the conciliation proceeding and terminated the service of the concerned workman on and from 11-8-91 for which the ALC(C) Dhanbad submitted a failure report of the said conciliation proceeding to the Central Govt. which have raise to the present reference. Since the action of the management was illegal and arbitrary the concerned workman has prayed for a finding to the effect that the management is not entitled to go beyond its record and thereby cannot reduce the period of service of the workman arbitrarily and also for a finding to the effect that the action of the management in superannuating the concerned workman Smt. Tudoo with effect from 11-8-91 instead of 30.3.97 is improper, illegal and as such not justified for which the concerned workman should be allowed all her wages and other benefits after 11.8.91 to 30.3.97 her normal date of retirement by superannuation.

4. The management also filed a W.S.-cum-rejoinder wherein the management has made out a case that in fact there is no industrial dispute between the employer and the alleged workman. The union which has espoused the cause of the dispute has absolutely nothing to do with the establishment from which the concerned workman comes and in that view of the matter the dispute raised is not at all industrial dispute. Further case of the management is that the age of Smt. Tudoo at the time of commencement of employment i.e. 1-10-64 was written as 37 years in Col No. 4 of Form B Register which was signed by Smt. Tudoo as token of correctness of her age being 37 years as on 1-10-64. Thus the date of birth of Smt. Tudoo comes to 1-10-1927 for which she should have vacated her employment by way of superannuation with effect from 1-10-87.

5. Smt. Tudoo replied by her letter dt. 5-4-91 that she would not be in a position to produce any document in proof of her age and by her another letter dt. 2/4-91 she also expressed her inability to produce any such certificate showing her educational qualifications. She also admitted that she was not matriculate and she got primary education up to Middle level in a Missionary school yet for the reasons best known to her she abstained from producing any such certificate of the school authorities showing her date of birth in the Admission Register etc. of the School. The management has also made out a case in the W.S. that there was manipulation in the Form B Register against entries in respect of Smt. Tudoo which was signed by Smt. Tudoo. The figure "30-3-1937" have been inserted subsequently by a different person and in different ink and that too as per say of the management, after pretty long time of her date of appointment. The management issued a letter to the concerned workman being No. CHL/GL/227 dt. 29-3-91 asking her to produce authentic age proof within 15 days from the date of issue of that letter as Smt. Tudoo had undergone training from August, 1949 to 1952 and thereafter and the minimum age for undergoing such training for Nursing and Midwifery is 18 years. The claim of the concerned workman that her date of birth is 30-3-37 cannot be accepted as correct because in such a case her age would be 12 years and few months during August, 1949 when she started undergoing training of Nursing. The management has also made out a case that the husband of Smt. Tudoo was also a worker of Loyabad Colliery and his date of birth was recorded as 12-10-1919 in Form B Register. He was examined by the Medical Board and his date of birth was corrected as 7-8-1925 for which he was superannuated with effect from 7-8-1985 and in case if any consideration is taken in respect of the age of the husband and wife and in case the claim of the concerned workman is accepted in that case it cannot be said that the age of the husband and wife was matching. The Govt. of India Ministry of Labour initially turned down the reference for adjudication of the dispute by any industrial Tribunal by taking into consideration all these facts and circumstances and as such there is no merit in the reference. The management as employer on all these ground prayed for an order to the effect that the action of the management in superannuating Smt. Tudoo with effect from the date mentioned earlier is quite justified.

6. In addition to the case made out in the W.S. the management has also submitted parawise comments in respect of the contents of different paras of the W.S. submitted on the side of the concerned workman and in doing so the management has, however, abstained from making any comments in respect of para-1, 2, 9, 10 and 11 being matters of records and in respect of 3, 4 and 5 the say of the management is that the age of Smt. Tudoo was recorded as 37 years on 1-1-84a at the time of her initial appointment. In respect of the contents of para-6 and 7 the say of the management is that in Form B register in which the age of Smt. Tudoo was entered as 37 years on 1-10-64 which was duly signed by Smt. Tudoo and as she raised no dispute it can be safely be said that she accepted the correctness of the entries in the Form B Register in respect of her age. In respect of the contents of para-8 the claim of the management

is that the order issued by the management was not at all arbitrary, illegal or without any basis. The management denied the contents of para-12 of the W.S. of the concerned workman and once again has claimed that the management was quite justified in superannuating Smt. Tudoo with effect from the date as mentioned earlier. Naturally the claim of the management is that the present reference is devoid of any merit accordingly an order rejecting prayer/claim should be passed.

7. The workman side also filed rejoinder as against the W.S. made on the say of the management wherein the workman side has made out similar case like that of the case as mentioned in the W.S. and in addition the workman has claimed at the management after consultation of all Central Trade Union took a decision to intimate to all the workers service particulars including date of birth and date of appointment etc. with a view to computerise those after consideration of the objection in respect of date of birth etc. on determination of the age by way of medical examination and in doing so the management intimated the concerned workman that her age as per records available with the management was 30-3-1937. The workman accepted the same and as such the management is stopped from taking the plea that her age or date of birth is not 30-3-1937. In addition the workman side has also made parawise comments of the contents of the W.S. and denied that the age of the concerned workman Smt. Tudoo was 37 years on 1-10-64. The espousing union has also claimed that the union is competent to raise industrial dispute in respect of its members. The workman side has also claimed that the Form B register prepared after nationalisation on consulting the Form B Register available in the office of the previous owner, C.M.P.F. record etc. and on consulting all these papers the age of the concerned workman was recorded as 30-3-1937. In that view of the matter the termination of the services of Smt. Tudoo prior to 1997 is illegal and unjustified. The workman side has claimed that there was no age limit for undergoing training for Nursing at the relevant time when Smt. Tudoo started her training for nursing and Midwifery. The matching age of the Husband and the wife as mentioned in the W.S. of the management are not at all relevant for the purpose of adjudicating the point mentioned in the schedule of the reference and as such an order in terms of the prayer of the concerned workman in the W.S. should be passed.

8. The point for decision is whether Smt. Tudoo was aged 37 years on the date of her appointment or whether her date of birth was 30-3-1937 on that date.

9. For the purpose of proving their respective case the parties have adduced oral evidence and in addition have also produced certain document. Admittedly Smt. Tudoo was serving as Staff Nurse at Loyabad Central Hospital, Phambad. Her service was terminated by service of notice and she was forced to retire with effect from 11-8-97. The concerned workman Smt. Tudoo has claimed the same to be unjustified on the ground that in the C.M.P.F. record ID Card etc. her date of birth has been noted as 30-3-1937 and as such she should have been permitted to continue in the service till March, 1997. The concerned workman in course of

hearing has posed herself as WW-1. Her evidence is that in fact her date of birth was recorded as per her own declaration not only in the I.D. Card but also in the Form B Register. The service excerpt supplied to her in the year 1982 the date of birth of Smt. Tudoo is noted as 30-3-1937. It is also her claim that when she entered into the service there was in fact no specific age limit for appointment of a trained Nurse. The management accepted the declaration in respect of age of the concerned workman and papers were accordingly prepared including seniority list. During cross-examination learned Advocate on the other side tried to prove by cross-examination of the witness that in fact minimum age limit for undergoing training of Nursing even at the time when Smt. Tudoo took training was 18 years and in that view of the matter if she started taking training in the year 1948 in that case by way of mathematical calculation she must be aged 30 years and as such she should have retired much earlier than 1991. But the witness denied the suggestion that in fact the age limit for undergoing training for Nursing at the relevant time was 18 years but at the same time she admitted that at the time of undergoing training she got her age noted as 15 years for the purpose of undergoing training. Several other questions were also put to the witness during such cross-examination in respect of age of her husband, date of his retirement who was also an employee of BCCL which to my mind are not so much relevant for the purpose of adjudicating the point of reference. The witness had admitted during her cross-examination that she read upto Matric standard out for the reasons best known to her she abstained from producing any testimonial like school leaving certificate etc. for the purpose of proving that she was in fact not aged 37 years on the date of her entry into service and that her date of birth was actually 19-3-1937. On the other hand the management side has also examined two witnesses. Out of whom MW-2 is a formal witness who produced and proved certain letters while MW-1 is a Medical Officer. The management by examination of MW-1 Dr. R. L. Prasad tried to prove that in fact Smt. Tudoo was aged 37 years on the date of her entry into the service and that her date of birth was actually not 30-3-1937. But the evidence of this witness is not of so much help to the management for the purpose of proving the same in as much as per evidence of this witness he was not in service at the time of entry of service of Smt. Tudoo. The witness has claimed during his examination that he has filed the Form B Register but in fact he has not. There is no dispute that in the Form B register the date of birth of Smt. Tudoo has been shown as 10-3-1937. There is also no dispute that identical date of birth was shown in the service excerpt and in the I.D. Card yet the management served notice upon the concerned workman Smt. Tudoo for superannuating her from service with effect from 11-8-91 solely on the ground that as minimum age for undergoing training of Nursing in a recognised institution is 18 years it shall be taken into granted that Smt. Tudoo was not below 18 years in 1948 when admittedly she started undergoing training of Nursing. Learned Advocate on the side of the concerned workman submitted much about the importance of the entries in the Form B Register specially in respect of age of a particular workman like Smt. Tudoo and in view of the certified standing

orders 37.0 the age so recorded in the Form B Register shall be the sole evidence or proof in respect of age of a particular workman and in the present reference of Smt. Tudoo. Naturally according to the Learned Advocate for the workman since the date of birth of Smt. Tudoo has been recorded as 10-3-1937 in the Form B Register her superannuation before 1997 is unjustified and illegal. She, therefore, should be allowed the relief prayed for by her in the W.S. and an Award to that effect should be passed. Learned Advocate, however, abstained from submitting anything as to the period including the year in which Smt. Tudoo took the training of Nursing i.e. from 1948 to 1953 and confined himself only on the ground of entry in the Form B Register in respect of the date of birth of the concerned workman. On the other hand learned Advocate on the side of the management submitted that the age recorded in the Form B Register as per declaration of the concerned workman at the time of her initial appointment was 37 years and same was noted in the original Form B Register of the previous owner of the colliery which was subsequent converted by nothing therein the date of birth as 30-3-1997. Learned Advocate has drawn my attention to a paper cutting in respect of the age of one Mrs. Binodini Sinha who took the opportunity of undergoing training of Nursing by furnishing false date of birth and thereby misleading the Government resulting in recommendation to the Govt. by the Addl. Director of Health Services for taking action against her. Learned Advocate by drawing my attention to the advertisement contained in the Nursing Journal of India of the year 1989 submitted that minimum age of the female unmarried candidate was 18 years and the papers produced on the side of the management are sufficient to show introduction of certain age limit for undergoing training of a Nurse was in fact was introduced much earlier from 1989. Smt. Tudoo has admitted during her cross-examination that she disclosed or declared her age for the purpose of undergoing training of Nursing as 15 years. As I have already stated that there is no dispute that Smt. Tudoo obtained training during the period from 1949 to 1953 which otherwise means that in fact she started her training from the institution mentioned by her during her examination in this Tribunal in the year 1948 and since it is her own evidence that she declared her age at that time to be of 15 years it clearly shows her year of birth must 1933 as per her own statement. Now in case even if we take it for granted that there was no prescribed age limit for undergoing training of Nursing in the year 1948 and that the age limit for undergoing such training started after completion of the training of Nursing by Smt. Tudoo etc. in that case also it cannot be accepted that she was not even teenager or aged 15 years in the year 1948 when she started undergoing training of Nursing. It was not disputed by the learned Advocate on the side of the workman that there was over writing etc. in the Form B Register in respect of date of birth of the concerned workman but according to the learned Advocate since the custodian of the Form B Register etc. in the management tampering if any took place by any employee, that management and proper steps for finding out of the particular employee should have been taken and punished for doing such type of mischief but the management without doing so has



subjected the concerned workman to suffering by minimising the period of her service by way of her premature superannuation. I, however, after due consideration of the submissions of the respective parties, the materials available on record do not find much substance in the submission of banned Advocate for the workman and as I have already stated that since it is the evidence of Smt. Tudoo that she was aged 15 years when she started undergoing training in the year 1948 her year of birth must be taken as 1933 and in that view of the matter also it cannot be said that the management has committed any wrong in not accepting the date of birth of Smt. Tudoo as noted in the Form B Register as correct and by accepting that in fact she was 37 years at the time of her initial entry into the service and in that case also the concerned workman had the opportunity to serve more than the prescribed period of service. I am, therefore, unable to hold that the date of birth of Smt. Tudoo was 30-3-1937. The management has therefore committed no wrong in superannuating Smt. Tudoo with effect from 11-8-91 instead of 30-3-97. The action of the management is quite justified. The concerned workman is not entitled to any relief in this reference. The schedule of reference is thus adjudicated.

This is my Award.

B. B. CHATTERJEE, Presiding Officer

नई दिल्ली, 1 दिसम्बर, 1998

का.आ. 2696.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में. बी. सी. सी. एल. के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं.-2) घनबाद, के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1/12/98 को प्राप्त हुआ था।

[सं. एल-20012/38/97-आई.आर. (सी I)]

श्याम सुन्दर गुप्ता, डेस्क अधिकारी

New Delhi, the 1st December, 1998

S.O. 2696.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. B.C.C.L. and their workman, which was received by the Central Government on 1-12-98.

[No. L-20012/38/97-IR(C-I)]

S. S. GUPTA, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

#### PRESENT :

Shri B. B. Chatterjee, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) and sub-section 2(A) of the I.D. Act, 1947

Reference No. 22 of 1998

#### PARTIES :

Employers in relation to the management of M/s. B.C.C. Ltd., Dhanbad and their workmen.

#### APPEARANCES :

On behalf of the employers : Shri B. Joshi, Advocate.

On behalf of the workmen : None.

STATE : Bihar.

INDUSTRY : Coal.

Dhanbad, the 3rd November, 1998

#### AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) and sub-section 2(A) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. 1-20012/38/97-IR (C-I), dated the 11th March, 1998 :

#### SCHEDULE

"Whether the action of the management in not regularising Shri S. Bakshi as Attendance Clerk after completion of one year of deputation as Attendance Clerk is justified? If not, to what relief the workman is entitled to?"

2. Soon after the receipt of the order of reference notices were duly served upon the parties. Both the parties appeared and workman side filed W.S. Subsequently when the case was fixed for filing W.S. on the side of the management Shri B. Joshi, learned advocate for the management appeared before me and filed a petition of compromise under the signature of both the parties. I have gone through the compromise petition and find that the terms contained therein are fair and proper. Accordingly, I accept the said compromise petition and pass an Award in terms thereof which forms part of the Award as Annexure.

B. B. CHATTERJEE, Presiding Officer

#### ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, DHANBAD

Reference Case No. 22/98

Employer in relation to the management of Kusunda

Area and their workman—RCMS.

#### Brief of the case :

Shri S. K. Bakshi, Mining Apprentice, Cat. I was engaged as Attendance Clerk in the year 1987 w.e.f. 16-5-87 and ultimately he was regularised as Attendance Clerk Grade II w.e.f. 21-12-92. Shri Bakshi raised an ID which ended in failure and finally referred for adjudication under reference above. The schedule of the reference is :

Whether the action of the management in not regularising Sri S. K. Bakshi as Attendance Clerk after completion of one year as deputation as Clerk is justified? If not, to what relief the workman is entitled to?

The matter has been discussed with the union and the workman and both the parties agreed to settle the dispute on the following terms :

## TERMS OF SETTLEMENT

1. That Shri S. K. Bakshi, Attendance Clerk will be given notional seniority after completion of one year as Attendance Clerk i.e. w.e.f. 16-5-88 notionally with fixation benefit notionally.
2. No arrears payment accrued thereof by this notional fixation will be paid to Shri Bakshi.
3. Shri S. K. Bakshi will not raise this dispute on any forum in future and notional seniority with fixation benefit will be full and final to resolve the dispute.
4. This settles the dispute in toto.

Sd/-

(P. JHA),  
Dy. C. P. M.  
Kusunda Area

Sd/-

(R. R. P. SINGH),  
Branch Secretary,  
R. C. M. S.

Sd/-

(K. N. AMBASTHA),  
Dy. P. M.

Sd/-

(S. K. BAKSHI),  
Workman Concerned.

नई दिल्ली, 1 दिसम्बर, 1998

कांसा० 2697.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में बी. सी. एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 2), धनबाद, के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 30/11/98 को प्राप्त हुआ था।

[सं. एल-20012/211/91-आई.आर. (सी.-I)]

श्याम सुन्दर गुप्ता, डेस्क अधिकारी

New Delhi, the 1st December, 1998

S.O. 2697.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. B.C.C.L. and their workman, which was received by the Central Government on 30-11-98.

[No. L-20012/211/91-IR (C-I)]

S. S. GUPTA, Desk Officer

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

## PRESENT :

Shri B. B. Chatterjee, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

Reference No. 13 of 1992

## PARTIES :

Employers in relation to the management of M/s. B.C.C. Ltd. and their workmen.

## APPEARANCES :

On behalf of the workmen : None.

On behalf of the employers : None.

STATE : Bihar.

INDUSTRY : Coal.

Dhanbad, the 3rd November, 1998

## AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(211)/91-I.R. (Coal-I) dated, the 26th March, 1992 :

## SCHEDULE

"Whether the action of the management of Putee Bahari Area of M/s. Bharat Coking Coal Ltd. in not granting special casual leave to employees who could not attend to their duties on 8-10 1990 due to failure of public transport on account of Bandh and in denying them wages for the day is justified? If not, to what relief are the workmen entitled?"

2. Soon after the receipt of the order of reference notices were duly served upon the parties. But none of the parties appeared nor took any steps. Thereafter several adjournments were granted to the parties and then again notices were issued to them. But in spite of the issuance of notices to them they neither appeared before this Tribunal nor took any steps. In the circumstances, this Tribunal has been left with no other alternative but to pass a 'No Dispute' Award in this reference presuming that presently there is no dispute existing between the parties.

B. B. CHATTERJEE, Presiding Officer

नई दिल्ली, 1 दिसम्बर, 1998

कांसा० 2698.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में ई. सी. एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 2) धनबाद, के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 30/11/98 को प्राप्त हुआ था।

[सं. एल-20012/265/92-आई.आर. (सी.-I)]

श्याम सुन्दर गुप्ता डेस्क अधिकारी

New Delhi, the 1st December, 1998

S.O. 2698.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. E.C.L. and their workman, which was received by the Central Government on 30-11-98.

[No. L-20012/265/92-IR (C-I)]

S. S. GUPTA, Desk Officer

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

## PRESENT :

Shri B. B. Chatterjee, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act, 1947.

REFERENCE NO. 162 OF 1993

## PARTIES :

Employers in relation to the management of Raipura Colliery of M/s. E.C.L. and their workmen.



















## APPEARANCES :

On behalf of the workmen- None

On behalf of the employers—None.

STATE : Bihar

INDUSTRY : Coal.

Dated, Dhanbad, the 5th November, 1998

## AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(265)/92-I.R.(Coal-I), dated, the 22nd September, 1993.

## SCHEDULE

"Whether the action of the management of Rajpura Colliery of M/s. Eastern Coalfields Ltd. of Kapasara Area in recording age of workman Smt. Kamala Modi as on 1-7-1940 is justified? If not, to what relief concerned workman is entitled to?"

2. Soon after the receipt of the order of reference notices were duly served upon the parties. But none of the parties turned up nor took any steps. Thereafter several adjournments were granted to the parties and again notices were issued to them. But inspite of the issuance of notices to them again and again they abstained from appearing before this Tribunal. It, therefore, leads me to an inference that presently there is no dispute existing between the parties. In the circumstances, I have no other alternative but to pass a 'No dispute' Award in this reference.

B. B. CHATTERJEE, Presiding Officer

नई दिल्ली, 1 दिसम्बर, 1998

का. आ. 2699.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सै. बी. पी. सी. एल. के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं.-1), मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-11-98 को प्राप्त हुआ था।

[सं. एल.-30012/2/91-आई आर (विविध)/आई आर (सी-1)]

श्याम सुन्दर गुप्ता, डेस्क अधिकारी

New Delhi, the 1st December, 1998

S.O. 2699.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. I), Mumbai as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. B.P.C.L. and their workman, which was received by the Central Government on 30-11-1998.

[No. L-30012/2/91-IR (Misc.) IR (C-I)]

S. S. GUPTA, Desk Officer

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT :

Shri Justice C. V. Goverdhan, Presiding Officer.  
Reference No. CGIT-35 of 1995

PARTIES :

Employers in relation to the management of Bharat Petroleum Corporation Ltd., Bombay

AND

Their Workmen.

APPEARANCES :

For the Management—Shri R. N. Shah, Advocate.

For the Workman—Shri Nabar, Advocate.

Mumbai, the 18th day of November, 1998

## AWARD

The Central Government by its order dated 22nd August, 1995 has referred the following dispute between the Management of Bharat Petroleum Corporation Ltd., and its employee Miss Nanda R. Shetty for adjudication by this Tribunal.

"Whether the action of the management of Bharat Petroleum Corporation Ltd., Bombay in terminating the services of Ms. Nanda Shetty Clerk/typist w.e.f. 15th June, 1990 is legal and justified? If not, to what relief the workman is entitled to?"

The employee in her claim statement contends as follows :

The employee was appointed in the post of Clerk/Typist 'B', by an appointment letter dated 24th April, 1989. She commenced her work on 14th May 1989 on probation. She was discharging her duties sincerely and efficiently. At the end of January, 90 she had a fit and was treated by her Dr. K. Ravishankar, who found that she has 'intracranial granuloma'. She has resumed duty on 17th February. Her condition was showed as normal in the CT Scan taken on 26th March 1990. The management directed her to appear for a medical examination prior to confirmation. The medical report dated 4th May 1990 reveals that there was a near total resolution of the lesion. It has stated that permanent employment is not recommended. The management sent a letter to the employee dated 14th May 1990 stating that the medical report is awaited and her probationary period was extended to 14th June 1990. The management by its letter dated 14th June 1990 illegally terminated her services on the ground that she was not fit for continuous employment in her present state of health. The employee got herself examined by Dr. S. M. Katrak on 26th June 1990. He has certified that her nervous system is entirely normal and she is fit to continue her normal duties. By a letter dated 29th June, 1990 she sent all the details regarding her case to the Chairman and resubmitted the cheque issued in her favour. There was no response. The employee approached the Petroleum Employees' Union which in turn wrote a letter to the Dy. General Manager on 23rd July, 1990 stating that she had completed 12 months of her probationary period and instead of confirming her employment her probation has been extended on the pretext of non-receipt of the medical report. The Union has also demanded that the employee be re-employed and confirmed with continuous service. The employee has approached Dr. Phanubha who was on the medical panel at herself examined and obtained a certificate to the effect that she was fit to do normal office duties. The management refused the re-insistence and confirmed the employee by a letter to the Union dated 20-8-90. The Union and the employee approached the Regional Labour Commissioner. The conciliation proceedings took place and it ended in failure.

The Asstt. Labour Commissioner has notified the Central Government about the failure. The Union has received a communication from the Government stating that this dispute cannot be referred for adjudication as there was no malafide on the part of the management. The employee and the Union therefore filed a writ petition 3514 of 1991 before the High Court. Justice Ashok Agrawal passed an interim order directing the employee to appear before the panel of Doctors of management and gave a direction that in case found fit, the management was to consider employing her afresh for a period of one year on probation. In April 1990 the employee was asked to appear before the medical panel. She went to Dr. Ravishankar and the said Doctor after examining her gave a report declaring her fit for any type of office work. The medical panel after examining her gave its report on 3rd April 1992 and it was communicated to her. In the report it was stated that she is unfit. The Union and the employee challenged the report of the medical panel by filing a Motion No. 72 of 1993 in Writ Petition No. 3514 of 1991. The said writ petition was finally disposed by Justice A. V. Sawant allowing the same with a direction to the Central Government to make this reference. Hence this reference. The reference was dismissed by this Tribunal 28-2-96 for non-prosecution. It was challenged by the Union and the employee by filing writ petition of 960 of 1996. It was allowed. The termination of the services of the employee by the Corporation is illegal and malafide in the above circumstances. The Union prays to allow the reference and to reinstate the employee into service with full back wages and continuous services.

3. The Bharat Petroleum Corporation Ltd, referred as 'Corporation' in their written statement contends briefly as follows :

Persuant to her interview the employee was advised by the Corporation to appear for a medical examination by the Corporation Medical Officer on 17th April 1989. She was required to fill up all the section except Section 2 and 3. She was also required to answer questions regarding her medical history. Her answers did not reveal any major illness. The employee was untruthful in replying to the questions regarding her physical conditions. She was offered employment and as to the letter of appointment she was advised that her continuance in service will be subject to her being found medically fit by the Corporation Doctor or by a Government Medical Officer of the status of Civil Surgeon. She was advised that she will be on probation for a period of 12 months from the date of joining duty. She was informed that it may be extended if necessary. The employee remained absent from 3th January, 1990 to 20th February 1990. She submitted a medical certificate dated 16th February 1990 on resumption from one Dr. Ravishankar. She was also examined by the Corporation Medical Officer who advised her to continue treatment and report to him every three months. On the certificate of Dr. Ravi Shankar the Corporation came to know that the employee was suffering from Intracranial granuloma. The Corporation therefore decided to constitute a medical board to ascertain her health in order to find out if she was fit for permanent employment. The Medical Board comprising of Dr. Bharucha, Dr. S. S. Wagh, Dr. J. C. Patel and Dr. P. R. Dasoudi was constituted and they examined her on 4th May 1990. The medical board confirmed that the employee has fits because of her right Parietal Tuberculosis, though the same is controlled at present she will be required two years of further anti-epileptic treatment and 18 months of anti-tubercular therapy. The Board certified that there is a likelihood of having another fit in future in any other part of her body and recommended that she was not fit for permanent employment since her probationary period was to expire. The same was extended upto 14th June 1990. Dr.

Bhrucha and Dr. Wagh were not in employment of the Corporation. The Corporation by its letter dated 14th June 1990 informed the employee that in view of the opinion of the Medical Board it would not be in the interest of the Corporation to continue her probationary service and accordingly her services will stand terminated. She refused to accept the said letter and the cheque sent alongwith it. Therefore, they were sent by registered post. On 26th June 1990 the employee forwarded the medical certificate by Dr. Katkar certifying that her nervous system is normal and she is fit to continue her duties. She also produced medical certificate from Dr. Bharucha dated 26-6-90 wherein she has been advised for continue treatment for anti-TB for two years and treatment of anti convulsants for five years. He had also certified that 'otherwise' she is fit to work. The employee sent a representation to the Chairman of the Corporation dated 29-6-90 for reinstatement. It was rejected. The Union stepped in and addressed a letter for reinstatement, alleging the termination was unfair and improper. It was denied. The Union approached the Regional Labour Commissioner for initiating an action under the Industrial Dispute Act. On receipt of the letter from the Regional Labour Commissioner the Corporation took for in the conciliation proceedings. Ultimately Asstt. Labour Commissioner sent a failure report. The Government has sent communication stating that there is no malafide on the part of the management in terminating the service of the employment. The Union and employee filed a writ petition. His Lordship Ashok C. Agarwal gave an interim order directing the employee to appear before a panel of Doctors and in case she is found fit the Corporation should consider employing her afresh for a period of one year on probation. The Corporation appointed a panel of Doctors and the employee appeared before the panel of Doctors on 3rd April, 1990. Further on 2nd April she had approached Dr. Ravishankar and obtained a fitness certificate. The panel of Doctors after examining her found her unfit for permanent employment. It was challenged by the union. The writ was finally disposed with a direction to the Central Government to make a reference. Accordingly, the present reference is given.

The employee who is found medically unfit cannot claim reinstatement and the application is therefore, liable to be dismissed.

The employee has filed a rejoinder reiterating her earlier stand in the claim statement.

4. The point for consideration is whether the termination of service of the employee on the ground of medical unfitness is illegal and justified ?

The Point :

The employee was appointed as a Clerk-cum-Typist by the Corporation after an interview and in pursuance of the letter of appointment dated 24-4-89 she joined duty on 12th May 1989. The appointment letter under Ex. M-2 specifically states that she will be on probation for a period of 12 months from the date of the joining duty and that the probation period may be extended if considered necessary at the discretion of the Corporation. The said letter of appointment also has a clause in clause 4 which states that employing her in continuous service shall be subject to her being found medically fit by the Corporations Doctors or by a Government Medical Officer of the status of Civil Surgeon, at the discretion of the Corporation. The employee has accepted the above letter of appointment and joined duty on 12th May 1989. It is an admitted case that the employee remained absent from 29th January 1990 and reported for duty with medical certificate issued by one Dr. Ravishankar under Ex. M-3. The said certificate is to the effect that the employee has an Intracranial Granuloma and she is fit to resume work from 17-2-90 with strict instructions to continue the medicines as prescribed. The employee examined as WW-1 has admitted in cross-examination that she reported for duty on 26th February, 1990. She was advised to continue treatment she was already taking and that she

was advised to take treatment for a period of 2 years. The management who has allowed her to join duty has advised her to get herself examined by the Doctors of the Corporation in view of Clause IV of the letter of appointment and in view of the fact that her probation period is about to expire. The employee got herself examined by the Doctors of the Corporation on 4-5-90. According to the Employee, WW-1, or the four Doctors who examined her, Dr. Wagh and Dr. Bharucha were not employees of the BPCL and were outsiders. She has stated that she does not know whether the other two Doctors namely Dr. Patel and Dr. Dasondi are Medical Officers of B.P.C.L. and are not employees of the Corporation. But at the same time she admits that none of the Doctors had any enmity with her. The panel of Doctors, who have examined her on 4th May, has issued a report under Ex-M-4 stating that the Tuberculosis of the right parietal region has been fully controlled on that day and in their opinion the employee will require 2 years of further anti-epileptic treatment and 18 months of anti-tubercular therapy. They have also opined that there is a likelihood of her suffering another fit in the future and the tubercular manifestations in any other part of her body in case of flare up of the disease. Finally, they have stated that in view of the above conclusion permanent employment is not recommended.

The learned counsel appearing for the worker has argued that the panel of doctors are required to give medical report of the conditions of health of the employee and they cannot give their opinion as to whether she can be given permanent employment or not and it is beyond their capacity. This argument of the learned counsel appearing for the employee is not convincing and acceptable in view of the fact that the very purpose of appointing the medical board was to ascertain whether the employee was medically fit in all respects for confirmation. As such, the medical board cannot be said to have given its opinion unnecessarily and it is beyond its competence.

It is the duty of the Board to give its opinion. Therefore, this argument of the learned counsel appearing for the employee that the panel of doctors are not competent to give opinion is not tenable.

5. The learned counsel appearing for the employee has also argued that as per the standing orders of the Corporation it is not stated that probation can be extended more than 12 months from the date of the reporting of duty on medical grounds. But it is stated in standing order 5 that in the event of the work or conduct of the probation being found unsatisfactory the competent authority may extend the period of probation for a further period of 3 months and confirmation on satisfactory completion of probation shall be in writing. Clause IV of the letter of appointment specifically says that the continuance in service of the employee shall be subject to her being found medically fit by the Corporation or by the Govt. Medical Officer. Therefore, it goes without saying that simply because it is not stated in the standing orders that probation can be extended on medical grounds also, the extension of probation of the employee by the Corporation upto 14-6-90 is erroneous. In the communication sent to the employee under Ex-M-5 it is specifically stated that the opinion of the medical board is awaited and as such a probationary period is extended by one month. It is to be noted that on 04-5-90 the employee has been examined by panel of Doctors and Ex-M-5 shows that till 14th May, the management have not received the report of the medical board and out of necessity they have extended the period of probation. In this connection I wish to rely upon the decision reported in 1985 ILLJ 521 between Phanjibhai Ramjibhai and State of Gujarat wherein the Supreme Court has held that absence of rules indicating the manner of extending the probation does not mean there is no power to extend the period of probation. The apex Court has also held that the function of confirmation implies the exercise of judgment by the confirming authority on the overall suitability of the employee for permanent absorption in service. It has been further held that a probationer who is allowed to continue in service after completion of the period of probation does not enjoy any greater right to confirmation. As per Ex-M-2 the letter of appointment, medical fitness is one of the suitability of the employee for absorption permanently in service. The Corporation which is expecting the report of the panel of doctors has therefore extended the period of probation after 14-6-90 and

it cannot enable the employee to contend that on the expiry of the period of probation she is entitled for an order of confirmation and her termination is not proper. The employee cannot deny the inherent power vested with the employer to extend the probation to suit her convenience. It is more so when medical fitness is a matter to be considered before confirmation.

6. The learned counsel appearing for the employee has relied upon the decision of the Bombay High Court in writ petition 213 of 1995 dt. 03-4-97 and has argued that simply because an employee is not fit for absorption in a permanent post on medical grounds the employee cannot be denied confirmation. The facts of the above case are not applicable to the facts of the present case on hand because it is a case in which an employee was found medically fit but his claim for absorption in the permanent cadre on the ground that he may pose risk to his colleagues on account of his ill health has been negated. In the present case the employee herself has been found unfit for confirmation by a panel of doctors even though the employee has admitted that they have no enmity with her and two of them are not Corporation doctors.

7. The employee has got herself examined by two doctors subsequently. One of them namely Dr. Katrak has certified that she does not require any further treatment but the certificate issued by Dr. Bharucha who examined the employee on the same day is to the effect that she has to continue the treatment for a period of 18 more months. These two certificates cannot be relied by the employee to get an order of confirmation, since it is admitted by her in her evidence that she was not examined in the hospitals in which these two doctors were working. It is also admitted by her that when she met Dr. Bharucha on 26-6-90 she did not carry the report issued by him, earlier with reference to her health conditions and she has not informed him that as a member of the board he had already examined her on 04-5-90. She has not shown the prescription issued to her on the earlier occasion. This conduct of the employee in suppressing the facts of meeting Dr. Bharucha on 04-5-90 when she met him on 26-6-90 would go to show that all is not well with her conduct. As already observed by me, Dr. Bharucha against whom no motive has been alleged by the employee has certified that she required treatment for 18 more months even though she was normal in the date of his examining her.

8. In his report under Ex-M-3 Dr. Ravi Shankar, the doctor of the employee has stated that she has to continue treatment prescribed to her. In her evidence the employee has stated that she has been taking treatment prescribed to her by the said doctor for about 2 to 5 years and stopped taking treatment for the ailment only in January 1998. The panel of doctors who have examined her have certified in Ex-M-4 that they did not recommend her for permanent employment. The Supreme Court in the decision reported in 1994 SC 1241 Indian Council of Agricultural Research v/s Shashi Gupta has observed that they are of the view that once a medical board and the appellate medical board found the respondent medically unfit for the post of Scientist Grade 'S' the tribunal had no jurisdiction whatsoever to have got over the medical opinions and direct her appointment to the service and that the tribunal overstepped its jurisdiction and acted with an utter perversity and that medical fitness is the sine qua non for appointment to public services. In the decision reported in 1993 Supreme Court 2447 State Bank of India V/s. G. K. Deshkar their Lordships have held that they do not approve the approach adopted by the High Court in allowing the writ petition wherein the High Court took upon itself to decide the question of medical fitness of the respondent and on reaching a conclusion in favour of the respondent preferred the same as against the medical opinion of the specialist doctor. The above rulings of the Supreme Court makes it abundantly clear that it is not open for the tribunal to ignore the opinion of the doctors in order to hold that the non-employment of the employee is not illegal. It is the inherent right of the Corporation to be satisfied about the medical fitness of the employee before confirming her employment as per the letter of appointment. The Corporation has exercised this right and has terminated the service of the probationer. I am of the opinion that it is just and legal and the contention of the employee as well as the Union that the termination of the service of Miss Nanda Shetty is neither legal nor justified is

without merits and therefore the employee is not entitled to any relief. I hold on the point accordingly.

In the result an Award is passed dismissing the claim of the employee and holding that the termination of her service by the Corporation is legal and justified.

Award passed accordingly.

C. V. GOVARDHAN, Presiding Officer.

नई दिल्ली, 1 दिसम्बर, 1998

का. आ. 2700 :—औद्योगिक विवाद अधिनियम, 1947 ( 1947 का 14 ) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. एच. पी. सी. एल. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण जोधपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-11-98 को प्राप्त हुआ था।

[सं. एल.—30012/78/96—आई आर सी(सी-1)]  
श्याम मुन्वर गुप्ता, डेस्क अधिकारी

New Delhi, the 1st December, 1998

S.O. 2700.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jodhpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. H.P.C.L. and their workman, which was received by the Central Government on 30-11-98.

[No. L-30012/78/96-IR(C-I)]  
S. S. GUPTA, Desk Officer

अनुबंध

औद्योगिक विवाद अधिकरण एवं श्रम न्यायालय,  
जोधपुर

पीठासीन अधिकारी :—श्री चांवल सोतला, आर. एच. जे. एस.

( केन्द्रीय ) औ. विवाद सं. :—15/97

श्री नारायणराम पुत्र श्री पुष्पराम द्वारा महेश गहलोत निवासी गांव करानी जिला जोधपुर।

... प्रार्थी

बनाम

महाप्रबन्धक ( उत्तरी क्षेत्र ) हिन्दुस्तान पेट्रोलियम कारपोरेशन लि. जीवन भारती बिल्डिंग, 11 वां माला, टावर-1, कनाट सर्कस, नई दिल्ली।

... प्रार्थी

उपस्थिति :—

- (1) प्रार्थी की ओर से श्री जी. आर. पुनिया प्रतिनिधि उप,
- (2) अप्रार्थी की ओर से श्री डी. एन. शर्मा प्रतिनिधि उप.

अधिनियम

दिनांक 9-11-1998

औद्योगिक विवाद अधिनियम के प्रावधानों के अन्तर्गत श्रम मंत्रालय भारत सरकार ने अपनी विज्ञप्ति संख्या एल. 30012/78/96—आई. आर. ( सी-1 ) दिनांक 22-10-1997 में श्रमिक कर्मचारी तथा उसके नियोजक के मध्य उत्पन्न हुआ निम्नांकित विवाद अधिनियम हेतु इस श्रम न्यायालय को प्रेषित किया तथा दिनांक 17-12-97 को नियमित केन्द्रीय औ. विवाद सं. 15/97 पंजीबद्ध हुआ :—

“Whether the action of the management of Hindustan Petroleum Corporation Ltd. in imposing the punishment of termination from service on Sh. Narain Ram, is legal and justified ? If not, to what relief is the workman entitled ?”

उपरोक्तानुसार विवाद प्रार्थी की सेवाएं समाप्त किये जाने की वैधानिकता व औचित्यता से सम्बन्धित है तथा संबंधित श्रमिक कर्मचारी ने इसे अवैधानिक व अनुचित बताते हुए प्रस्तुत किये गये अपने मांग-पत्र में बताया है कि विपक्षी विभाग ने उसे 10-1-89 को श्रमिक के रूप में नियुक्त किया तब से वह तत्परता से विभाग के हित में कार्य करता रहा तथा उसे 2-4-90 को स्वीकृत भी कर दिया गया तथा उसके कार्य से सन्तुष्ट होकर 18-12-92 को वेतन श्रृंखला —एम. 3 में भी पदोन्नत किया गया तथा वह अपने कार्य पर लगातार बना रहा। मांग-पत्र के अनुसार दिनांक 22-6-94 को उसे एक आरोप पत्र दिया गया जिसमें आरोप लगाया गया कि वह आदतन व बिना अनुमति के अनुपस्थित रहता है तथा उसने नियमों का उल्लंघन किया है —इस आरोप-पत्र का उसने 18-7-94 को सन्तोषप्रद जवाब देते हुए आरोपों का खण्डन किया फिर भी उसके विरुद्ध जांच कारवाई गई जो जांच विभागीय सेवा नियमों, नैसर्गिक न्याय के सिद्धांतों के विरुद्ध थी तथा अन्ततः इस जांच में प्रार्थी को अनुचित तौर से दोषी माना गया व उसकी सेवाएं समाप्त कर दी गई। मांग-पत्र में बताया गया है कि प्रार्थी ने उत्तर में बताया था कि बीमारी व घरेलू समस्याओं के कारण अनुपस्थित रहा था तथा बीमारी का प्रमाण-पत्र भी प्रस्तुत कर दिया था फिर भी मनमाने तौर से वृद्धिपूर्ण जांच की गई तथा प्रार्थी के मेडिकल प्रमाण-पत्रों पर कोई ध्यान ही नहीं दिया गया। प्रार्थी के अनुसार जांच अधिकारी ने गवाह, जज व प्रोसीक्यूटर का कार्य किया, जांच अधिकारी ने प्रार्थी को दबाव में लाकर असत्य आश्वासन देते हुए आरोप स्वीकृति के हस्ताक्षर करवा लिये जो कि विलिंग वोलिंटरी स्वीकृति नहीं मानी जा सकती बचाव सहायक नियुक्त करने से वंचित रखा गया तथा बचाव में अपना पक्ष रखने से भी वंचित रखा गया। प्रार्थी के प्रमाण-पत्रों व उत्तर पर गौर ही नहीं किया गया—जिन दस्तावेजों का उपयोग किया गया वे प्रार्थी को नहीं बताये गये तथा प्रतिलिपियां भी नहीं दी गई—दस्तावेज व आरोप प्रमाणित नहीं हुए थे फिर भी

प्रार्थी को दुराचरण का दोषी माना गया। आवेदन में यह भी अंकित किया गया है कि प्रार्थी को उसकी उत्तम सेवाओं के कारण विभागीय अट्ठन भी दिया गया तथा विभागीय श्रेयर भी आबंटित किये गये तथा वह एक गरीब अनुसूचित जाति का है व दिया गया दण्ड सम्माननीय उच्चतम न्यायालय के एलेक्जेंडर पाल सिंह बनाम डिजीजनल आपरेंटिंग सुपरिटेन्डेंट में प्रतिपादित सिद्धांत के विपरित होकर कथित दुराचरण के अनुपात में अत्यधिक है एवं प्रार्थी स्थाई कर्मचारी था जिसकी सेवाएं सात वर्ष की हो चुकी थी। प्रार्थना की गई कि सेवा समाप्ति के आदेश को निरस्त कर सेवाएं निरन्तर मानते हुए सेवा में पुनर्स्थापित किया जावे तथा सेवा में निरन्तर मानते हुए समस्त वेतन व अन्य परिलाभ 24 प्रतिशत वार्षिक की दर में ब्याज सहित दिलाये जायें।

विपक्षी के उत्तर के अनुसार प्रार्थी ने उसके कन्फर्म नहीं होने तक तत्परता से कार्य किया तथा कन्फर्म होने के पश्चात् वह अपनी ड्यूटी के प्रति अत्यन्त लापरवाह रहते हुए गैर कानूनी तरीके से बिना अनुमति, बिना सूचना, बिना आज्ञा व बिना अवकाश के अनुपस्थित रहने लगा जो कि कॉर्पोरेशन के नियमों के अन्तर्गत अनुचित है, जिस पर विभागीय जांच करना आवश्यक हुआ। अतः आरोप पत्र दिया गया एवं विधि व नियमानुसार जांच की गई। आवेदन में अंकित तमाम आक्षेपों से इन्कार करते हुए प्रकट किया कि प्रार्थी को एम. 03 स्केल में पदोन्नत उसके काम से सन्तुष्ट होकर नहीं दी गई तथा यह भी बताया गया कि प्रार्थी ने आरोप का विस्तारपूर्वक उत्तर दिया है तथा प्रार्थी ने जांच के दौरान में कोई आपत्ति नहीं उठाई व आरोप स्वीकार भी कर लिया। अतः प्रार्थी द्वारा कोई आपत्ति नहीं उठाई जा सकती एवं इसकी जांच पूरी तरह से नियम व प्रक्रिया अनुसार की गई। उत्तर में बताया गया है कि प्रार्थी ने भविष्य में अनुपस्थित नहीं रहने का आश्वासन दिया था इसके बावजूब भी स्वेच्छा से अनुपस्थित रहा तथा आवतों में कोई सुधार नहीं किया एवं न्यायालय के समक्ष यह प्रश्न विचाराणीय नहीं है कि प्रार्थी बीमार रहा या नहीं—अब प्रश्न यह है कि बिना स्वीकृति के अनुपस्थित रहा या नहीं। चिकित्सीय प्रमाण-पत्रों के अवलोकन से प्रकट होगा कि यह सब प्रमाण-पत्र सन्वेहास्पद हैं—बचाव सहायक के लिए बताया गया कि प्रार्थी को लिखित में सूचना कर दी थी कि वह अपने किसी सह-माथी से अपना बचाव करा सकता है। उत्तर में यह भी बताया गया है कि प्रार्थी को जो दण्ड दिया गया है वह पूरी तरह से उचित है तथा प्रार्थी को अनेक अवसर दिये जाने के बावजूद भी उसने अपने आचरण में सुधार नहीं किया तथा सम्माननीय राजस्थान उच्च न्यायालय ने भी इस तरह के कृत्यों को श्रोनिक एबसेन्टी की सजा दी है। अतः दण्ड अधिक नहीं है। उत्तर के अनुसार प्रार्थी जिस स्थान व जिस कार्य पर कार्यरत था उसका सीधा सम्बन्ध उपभोक्ता से है तथा ऐसे कार्य के लिए एक लम्बे समय तक अनुपस्थित रहने से कार्य पर विपरित प्रभाव पड़ता है तथा प्रार्थी आदतन अनुपस्थित रहने का आदी हो चुका था जिसे ड्यूटी पर आने के लिए कई पत्र व तार भी प्रेषित किये गये परन्तु

प्रार्थी पर कोई प्रभाव नहीं हुआ एवं दण्ड के विरुद्ध प्रार्थी की अपील भी अध्ययन व मनन के पश्चात् अस्वीकार की गई थी। आवेदन अस्वीकार करने का निवेदन करते हुए यह भी प्रकट किया गया कि यदि किसी कारणवश विभागीय जांच में कोई त्रुटी पाई जावे तो आरोप प्रमाणित करने के लिए अवसर दिया जावे।

चूंकि दोनों पक्षों ने विभागीय जांच के आधार पर प्रार्थी की सेवा समाप्त होना बताया है अतः विभागीय जांच की वैधानिकता पर पक्षकारों के तर्क सुने गये तथा 21-7-1998 के आदेश से की गई जांच विधिनुसार होना घोषित की गई। विभागीय जांच के तमाम दस्तावेजात विपक्षी द्वारा प्रस्तुत किये गये।

धारा 11-ए के अन्तर्गत दण्ड को अपास्त या संशोधन करने पर पक्षकारों के प्रतिनिधिगण के तर्क सुने गये पत्रावली का अवलोकन किया गया।

प्रतिनिधि प्रार्थी ने तर्क दिया है कि प्रार्थी की सेवाएं सात वर्ष की थी—प्रार्थी बीमार होने से अनुपस्थित रहा—अनुपस्थिति के आधार पर दिया गया दण्ड अत्यधिक है तथा प्रार्थी को सुधार का अवसर देते हुए उसे सेवा में पुनर्स्थापित किया जाना चाहिये। प्रार्थी की ओर से यह भी तर्क दिया गया कि सेवाएं समाप्ति का दण्ड अन्तिम दण्ड होता है जो इस तरह के मामलों में नहीं होना चाहिये। प्रार्थी की ओर से यह भी तर्क दिया गया कि प्रार्थी के लिए सहानुभूति का रवैया अपनाते हुए उसे सेवा में रखा जाना चाहिये तथा आवश्यक हो तो इस बारे में उचित शर्तें लगाई जा सकती हैं।

विपक्षी की ओर से तर्क दिया गया कि विपक्षी संस्थान जन-साधारण के उपयोग हेतु पेट्रोलियम प्रोडक्ट्स व एल. पी. जी. व नेचुरल गैस इत्यादी एकीकृत कर वितरण का कार्य करती है तथा प्रार्थी नागरिकों के उपयोग के लिए सिलेण्डरों में गैस भरने के आवश्यक कार्य पर था, जिन सिलेण्डरों को वितरकों को दिये जाने के पश्चात् उपभोक्ता को वितरण किया जाता है तथा प्रार्थी के इस तरह से अनुपस्थित रहने से इस अत्यन्त महत्वपूर्ण कार्य में विघन हुआ था तथा इस तरह से अन्य कर्मचारी भी करने लग जाएं तो सामान्य जीवन में अत्यधिक विघन हो सकता है। विपक्षी की ओर से यह भी तर्क दिया गया कि प्रार्थी को सुधार के काफी अवसर दिये गये। उसने पूर्व में लिखित आश्वासन भी सुधार का दिया इसके बावजूद भी उसने सुधार नहीं किया तथा यदि अब उसे सेवा में लाया जाता है तो अन्य कर्मचारियों पर विपरीत प्रभाव पड़ सकता है तथा इसकी सम्भावना से इन्कार नहीं किया जा सकता कि अनुशासनहीनता की प्रवृत्ति को बल मिला है। विपक्षी की ओर से यह भी तर्क दिया गया कि इन सब के अतिरिक्त भी यदि प्रार्थी को सेवा में पुनर्स्थापित किया जाता है तो इस तरह की शर्तें होनी चाहिए। जिससे प्रार्थी को उचित दण्ड मिले तथा अन्य कर्मचारियों को भी अनुशासन में रहने की ही प्रेरण

मिले। विपक्षी ने अपने उत्तर में प्रार्थी की नियुक्ति तिथि व स्वीकृत एवं वेतन श्रृंखला में पवोअति से इन्कार नहीं किया है बल्कि स्वीकार किया गया है। इससे यह प्रकट होता है कि प्रार्थी 10-1-89 से सेवाएं समाप्त करने के आदेश दिनांक 26-8-95 तक सेवारत था अर्थात् उसकी सेवाएं लगभग साढ़े छः वर्ष की थीं। प्रार्थी को दिये गये आरोप-पत्र के अनुसार (1) प्रार्थी वर्ष 1994 में फरवरी 1994 में 16, 22 व 26 (2) मार्च में 1, 2 व 3 (3) अप्रैल में 21, 22 व 25, 29 व 30 (4) पूरे मई माह अनुपस्थित रहा। इसी आरोप-पत्र में यह भी अंकित है कि प्रार्थी को सन 1991 में जून 1994 तक कई अवसरों पर पत्र व टेलीग्राफ उसके अनुपस्थित रहने पर कार्य पर उरस्थित होने हेतु भेजे गये। इन पत्रों तथा टेलीग्रामों की लिपियां भी अंकित की गई हैं जो लगभग 17 हैं तथा इन आधारों पर आरोप लगाया गया कि (1) आदतन अनुपस्थित रहता है (2) उच्चाधिकारियों के वैधानिक व उचित आज्ञाओं की पालना नहीं की जाती (3) संस्थान के विधिनुसार बनाये गये नियमों का उल्लंघन किया जाता है। यह आरोप-पत्र जून 1994 में दिया गया तथा प्रार्थी के 18-7-94 के आरोप-पत्र के जवाब के संबंध में लिखे गये पत्र में अधिकारी का पृष्ठांकन है कि निर्धारित मेडिकल प्रमाण-पत्र नहीं है—बीमार होने की सूचना नहीं दी गई—जब भी कोई पत्र भेजा गया वह वापस प्राप्त हो गया तथा प्रार्थी ने भी आरोप-पत्र का उत्तर नहीं दिया। अन्य विभागीय पत्र जो सन् 1991 में प्रार्थी को भेजे गये उपरोक्त विभिन्न पत्रों की लिपियों का उल्लेख है तथा प्रस्तुत किये गये इन दस्तावेजों की प्रतिलिपियों से यह भी प्रकट होता है कि टेलीग्राफ व अन्य पत्रों से सन् 1991 से प्रार्थी को यह कहा जाता रहा है कि वह आदतन अनुपस्थित होता रहा है जिसकी कोई सूचना नहीं है जिससे संस्थान को नुकसान हो रहा है। प्रार्थी को इसके लिए चेतावनी भी दी गई जिसके लिए भी 28-1-1994 के व अन्य पत्र हैं तथा प्रार्थी को इस आशय का पत्र भी भेजा गया कि यदि वह झूटी पर नहीं आयेगा तो उसकी सेवाएं समाप्त समझी जाएंगी तथा ऐसे एक से अधिक पत्र हैं। प्रार्थी की उपस्थिति के लिए उपस्थिति पंजिका की प्रतिलिपियां भी प्रस्तुत की गई हैं।

इस तरह यह निष्कर्ष लेने में कोई हिचकिचाहट नहीं हो सकती कि प्रार्थी आदतन अनुपस्थित रहा जिससे संस्थान के कार्य पर विपरीत प्रभाव पड़ा। परन्तु साथ ही यह भी ठीक है कि अनुपस्थिति के अलावा प्रार्थी पर अन्य किसी प्रकृति का आक्षेप नहीं लगा। चूंकि प्रार्थी की सेवाएं लगभग छः-साढ़े छः वर्ष की थी अतः न्यायालय की राय में प्रार्थी को उसके सुधार के लिए एक और अवसर देते देते हुए सेवा में पुनर्स्थापित किये जाने के सम्बन्ध में सहानुभूति से विचार किया जाना चाहिये परन्तु साथ ही यह भी सुनिश्चित कर लिया जाना चाहिये कि यह भावना नहीं है कि कोई दण्ड नहीं मिला या दण्ड अत्यधिक कम है। प्रत्येक तरह से यह सुनिश्चित किया जाना चाहिये कि अन्य कर्मचारियों पर इसका विपरीत प्रभाव नहीं पड़े तथा किसी तरह से अनु-

शासनहीनता को बल नहीं मिले। न्यायालय की राय में तमाम तथ्यों को देखते हुए प्रार्थी को उसे सेवा में नवनीयुक्त मानते हुए पुनर्स्थापित किया जाना चाहिये तथा यह स्पष्ट कर दिया जाना चाहिये कि सेवा पूरी तरह से नये सिरे से प्रारम्भ हुई मानी जायेगी तथा उसके प्रोबेशन की अवधि न्यूनतम दो वर्ष की होगी। तदनुसार यह विवाद अधिनिर्णित किये जाने योग्य है।

#### अधिनिर्णय

श्रम मंत्रालय, भारत सरकार नई दिल्ली की विज्ञप्ति सं. एल. 30012/78/96—आर्. आर. (सी-1) के अन्तर्गत प्रेषित विवाद इस तरह से अधिनिर्णीत किया जाता है कि हिन्दुस्तान पेट्रोलियम कॉरपोरेशन के प्रबन्धन द्वारा श्रमिक कर्मचारी श्री नारायणराम की सेवाएं समाप्त करने की कार्यवाही विधिनुसार व उचित है परन्तु दिया गया दण्ड अत्यधिक है। सेवा समाप्ति के आदेश को संशोधित करते हुए आदेश दिया जाता है कि (1) प्रार्थी संस्थान में नव-नियुक्त कर्मचारी की तरह सेवा में पुनर्स्थापित होगा तथा उसकी दिनांक 1-1-1999 से उसके कार्य के लिए उपस्थित होने पर पूरी तरह से नये सिरे से नवनीयुक्त की तरह प्रारम्भ होगी (2) दो वर्ष के लिए प्रार्थी परीक्षा पर रहेगा, (3) प्रार्थी वेतन श्रृंखला के न्यूनतम में नियुक्त होगा तथा संस्थान के नियमानुसार वेतन वृद्धियां व अन्य लाभ दिये जाते रहेंगे जैसे कि वह 1-1-1999 को नया नियुक्त हुआ है (4) प्रार्थी द्वारा पूर्व में की गई सेवा का उसे किसी भी उद्देश्य के लिए कोई लाभ प्राप्त नहीं होगा, (5) इस आदेश के परिणाम-स्वरूप प्रार्थी और किसी लाभ का अधिकारी नहीं होगा। इस अधिनिर्णय को प्रकाशनार्थ श्रम मंत्रालय, भारत सरकार नई दिल्ली को प्रेषित किया जावे।

यह अधिनिर्णय आज दिनांक 9-11-1998 को न्यायालय में हस्ताक्षर कर सुनाया गया।

चांदमल तोतला, न्यायाधीश

नई दिल्ली, 2 विसम्बर, 1998

का.आ. 2701.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. सी. सी. एल. के प्रबन्धतन्त्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं.-2); धनवाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-12-98 को प्राप्त हुआ था।

[सं. एल-24012/109/85-डी IV—बी/आईआर (सी-1)]

श्याम सुन्दर गुप्ता, डेस्क अधिकारी

New Delhi, the 2nd December, 1998

S.O. 2701.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2),



Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. C.C.L. and their workman, which was received by the Central Government on 1-12-98.

[No. L-24012/109/85-D.IVB/IR(C-I)]  
S. S. GUPTA, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

#### PRESENT :

Shri B. B. Chatterjee, Presiding Officer.

In the matter of an Industrial Dispute under  
Section 10(1)(d) of the I.D. Act, 1947.

REFERENCE NO. 97 OF 1986

#### PARTIES :

Employers in relation to the management of  
Giridih Colliery of M/s. C.C. Ltd. and  
their workmen.

#### APPEARANCES :

On behalf of the employers : Shri D. K. Verma,  
Advocate.

On behalf of the workmen : None.

STATE : Bihar INDUSTRY : Coal

Dated, Dhanbad, the 16th November, 1998

#### AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24012(109)/85-D. IV(B) dated, the 30th January, 1986.

#### SCHEDULE

"Whether the action of the Management of Giridih Colliery of M/s. C. C. Limited in denying continuity and promotion as Cat. IV Tyndal Mazdoors to S/Shri (1) Etwari Das, (2) Basudeo Das, (3) Roshan Rajak and (4) Rajendra Turi (T. No. 127) after they have worked for four years in this capacity is legal and justified? If not, to what relief are the concerned workmen entitled?"

2. In this reference both the parties appeared and filed their respective W. S. rejoinder etc. Thereafter the case proceeded along its course. But for the last several dates the workmen union abstained from taking any steps in spite of the issuance of notices under registered post. Under such circumstances, this Tribunal is left with no other alternative but to presume that the workmen or the sponsoring union is not interested to proceed further with the dispute. Hence, a 'No dispute' Award is rendered in this reference.

B. B. CHATTERJEE, Presiding Officer

नई दिल्ली, 2 दिसम्बर, 1998

का.आ. 2702—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै बी.सी.सी.एल. के प्रबन्धन के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं.-2); धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1/12/98 को प्रमत्त हुआ था।

[सं. एल-20012/(350)/92-आई.आर.]

श्याम सुन्दर गुप्ता; डेस्क अधिकारी

New Delhi, the 2nd December, 1998

S.O. 2702.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 2) Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. C.C.L. and their workman, which was received by the Central Government on 1-12-1998.

[No. L-20012(350)/92-I.R.]

S. S. GUPTA, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD.

#### PRESENT :

Shri B. B. Chatterjee, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I. D. Act, 1947.

REFERENCE NO. 194 OF 1993

#### PARTIES :

Employers in relation to the management of  
Regional Workshop, Dakra of M/s. C.C.L  
and their workmen.

#### APPEARANCES :

On behalf of the workmen—None.

On behalf of the employers—None.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 16th November, 1998

#### AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(350)/92-I.R.(Coal-I), dated, the 5th/9th November, 1993.

## SCHEDULE

"Whether the action of the management of Regional Workshop (NK) Dakra, Distt. Ranchi of M/s. Central Coalfields Ltd. is justified in dismissing the services of workman Shri Musa Gouda dated 7-3-91. If not, to what relief the workman is entitled?"

2. On receipt of the reference the same was dragged days after days awaiting appearance of the parties and filing W.S. of the respective parties. But, when neither of the parties appeared before this Tribunal for the purpose, notices were issued upon them under Regd. Post. In spite of such issuance of notices under Regd. Post to them again and again neither of the parties turned up nor took any steps, as such this Tribunal is left with no other alternative but to come to a finding that neither of the parties are in anyway interested in the matter of the present dispute. Ultimate result is that the present reference is liable to be disposed of as 'No dispute' presuming that no dispute is existing between the parties presently. Hence a 'No dispute' Award is being rendered.

Shri B. B. Chatterjee, Presiding Officer.

नई दिल्ली, 2 दिसम्बर, 1998

का.ग्रा. 2703. — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै० बी० सी० सी. एल. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं० 2), धनबाद के प्रभाव को प्रकाशित करती है, जो केन्द्रीय सरकार को 1/12/98 को प्राप्त हुआ था।

[सं० एल-20012/19/97-आई.ग्रा. (सी-I)]

प्रियम सुन्दर गुप्ता, डैस्क अधिकारी

New Delhi, the 2nd December, 1998

S.O. 2703.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. B.C.C.L. and their workman, which was received by the Central Government on 1-12-98.

[No. L-20012/19/97-I.R.(C-I)]

S. S. GUPTA, Desk Officer

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. B. Chatterjee, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

Reference No. 28 of 1998

PARTIES :

Employers in relation to the management of M/s. B.C.C. Ltd. and their workmen.

## APPEARANCES :

On behalf of the workmen : None.

On behalf of the employers : Shri B. Joshi, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dhanbad, the 19th November, 1998

## AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/19/97-IR(C-I), dated, the 23rd/27th February, 1998 :

## SCHEDULE

"Whether the demand of the union for the placement Shri Santosh Kumar, Helper (I) as Asstt. Store Keeper w.e.f. 30-11-90 and as Store Keeper Grade I w.e.f. 30-11-93 is justified? If so, to what relief is the concerned workman entitled to?"

2. In this reference both the parties appeared and only the workman side filed its written statement. Subsequently, when the case was fixed for W.S. of the management, learned Advocate for the management appeared before me and filed a Memorandum of Settlement under signature of both the parties. I have gone through the terms and conditions of the settlement and find the same to be fair and proper and beneficial to both the parties. Accordingly, I accept the said memorandum of settlement and pass an Award in terms thereof which do form part of the Award as Annexure.

B. B. CHATTERJEE, Presiding Officer

## ANNEXURE

Ref. No. GM/B-II/PD/1977/1997

Dated 23/24-8-87

MEMORANDUM OF SETTLEMENT ARRIVED AT BETWEEN THE MANAGEMENT OF BLOCK-II AREA AND SRI RAM PRAVESH SINGH, AREA SECRETARY, BCKU

Representing the Management	Representing the Workman/Union
(1) Sri U. P. Singh, (Area Personnel Manager).	(1) Sri Ram Pravesh Singh, (Area Secretary, BCKU).
(2) Sri Jaiprakash, (Personnel Manager).	

## Short Recital of the case

An I.D. was raised by the Area Secretary, BCKU vide file No. 1/98/95-E-4 dated 13-10-95 over the matter of regularisation of Sri Sheo Nandan Mahto who had been deployed to work as Driver in BOCP. The management did not agree during the course of conciliation proceeding due to non-possession of Class-VIII certificate and ultimately it resulted in failure. The Hon'ble Ministry of Labour, Government of India, advised the management to submit the comments. The reply was sent to GM (P&IR) Koyla Bhawan in turn has advised us to review this case. Finally the matter was received in the following terms and conditions.

## Terms of the Settlement

- (1) That, it has been decided to regularise Sri Mahto in Cat. V with effect from the date of conciliation i.e. 13-10-95.
- (2) That, it has been decided to Sri Mahto will not raise any dispute for regularisation of Driver since he had been deployed to work as Driver.
- (3) That the copies of the settlement will be sent to the appropriate authority.

For the Management :

For the Workman/Union :

(1) (U. P. Singh),  
Area Personnel Manager.

(1) (Ramprवेश Singh),  
Area Secretary, BCKU

(2) (Jaiprakash),  
Personnel Manager

Witnesses :

- (1) Sd/- Illegible  
(2) Sd/- Illegible

नई दिल्ली, 2 दिसम्बर, 1998

का.आ. 2704.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मे. बी. सी. सी. एल. के प्रबन्धतंत्र के सबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं.-2), धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-12-98 को प्राप्त हुआ था।

[सं. एल-20012/(216)/91-आई.आर. (सी-I)]  
श्याम सुन्दर गुप्ता, डेस्क अधिकारी

New Delhi, the 2nd December, 1998

S.O. 2704.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. B.C.C.I. and their workman, which was received by the Central Government on 1-12-98.

[No. L-20012(216)/91/I.R. (C-I)]  
S. S. GUPTA, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. B. Chatterjee, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

Reference No. 7 of 1992

PARTIES :

Employers in relation to the management of Kanduadih Colliery of M/s B.C.C.L. and their workmen.

APPEARANCES :

On behalf of the workmen : None.

On behalf of the employers : None.

STATE : Bihar.

INDUSTRY : Coal.

Dhanbad, the 16th November, 1998

#### AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012 (216)/91-I.R. (Coal-I), dated Nil :

#### SCHEDULE

"Whether the action of the management of Kanduadih Colliery in not regularising Shri Magan Pasi as Tyndie with effect from 5-9-1982 and not protecting his pay of piece-rated miner loader is justified? If not, to what relief the workman is entitled?"

2. On receipt of the reference, the reference was dragged days after days awaiting appearance of the parties and filing of the respective W.S., rejoinder etc. But when neither parties appeared before this Tribunal for the purpose notices were issued upon them by sending under Regd. Post. In spite of such issuance of the notices by Regd. Post neither of the parties turned up and as such this Tribunal is left with no other alternative but to come to a finding that neither of the parties are in any way interested in the matter of the present dispute. Ultimate result is that the present reference is liable to be disposed of as 'No Dispute' presuming that at present no dispute is existing between the parties. Hence, a 'No Dispute' Award is being rendered.

B. B. CHATTERJEE, Presiding Officer

नई दिल्ली, 24 नवम्बर, 1998

का.आ. 2705.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वैस्टर्न रेलवे ग्रहमवावाद के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण ग्रहमवावाद, के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-11-98 को प्राप्त हुआ था।

[सं. एल-41012/12/91-आई.बी/बीयू/बी-I]  
सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 24th November, 1998

S.O. 2705.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Ahmedabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Western Rly., Ahmedabad and their workman, which was received by the Central Government on 18-11-98.

[No. L-41012/12/91-IB/DU/B.I.]  
C. GANGADHARAN, Desk Officer.

#### ANNEXURE

BEFORE SHRI D. V. JOSHI, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL (CENTRAL) AT AHMEDABAD.

Reference (ITC) No. 53 of 1991.

ADJUDICATION :

BETWEEN :

Western Railway, Ahmedabad.

AND

The workmen employed under it.

In the matter of the demand for including the name of Shri Kuldeep Singh M. in the seniority list of casual labourers and for re-engagement and other benefits etc.

APPEARANCES :

Shri H. B. Shah, Advocate, for the first party.  
Shri B. K. Sharma, Advocate, for the second party.

The Desk Officer, Ministry of Labour, New Delhi vide his Order No. L-41012/12/91-IB/D.U., dated 12-8-1991 has referred this industrial dispute between the above-mentioned parties for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 to this Tribunal. Thereafter under an appropriate order it has been transferred to this Tribunal for proper adjudication. The exact terms of the reference is as under :

“Whether the action of the DRM, Western Railway, Baroda in not including the name of Shri Kuldeep Singh M. in the seniority list of casual labourer and thereby denying re-engagement is justified ? If not, what relief he is entitled to ?”

2. The second party has filed statement of claim at Ex. 4 and prayed that the railway be instructed to include the name of Shri Kuldeep Singh in the seniority list of casual labourer published by Divisional Railway Manager, Baroda on 12-3-1987 and grant him all the due privileges as per the position in the seniority list and he be given job with arrears of payment and interest from the date he had been discontinued.

3. The facts raising this dispute, to be briefly stated, are as under :

Shri Kuldeep Singh was appointed as a casual Khalassi on 14-12-1977 on daily wage under Chief Engineer (Construction) Ahmedabad and was posted to work with Bridge Inspector, Construction at Ahmedabad, where he worked till 23-9-1982, and he was discontinued in violation of Section 25F of the I.D. Act while working under Chief Engineer (C) Ahmedabad. He was granted temporary status from 1-1-1982 as per Extent Rules and being temporary employee he was entitled for all the privileges admissible to a temporary railway servant as per para 2511 of Railway Manual, which is as under:

“2511. Rights and Privileges admissible to casual labour who are treated as temporary after completion of six months continuous service:—

(a) Casual labour treated as temporary are entitled for all the rights and privileges admissible to temporary railway servants as laid down in Chapter XXIII of the I. Rly. Estt. Manual. The rights and privileges admissible to such labour also include the benefit of Discipline and Appeal Rules....”

4. The Bridge Inspector on 23-9-1982 instructed Shri Kuldeep Singh M not to come on work as at the relevant time there was no work and this was done without following the provisions of Section 25F of the I.D. Act, 1947 and even no prior permission from the Government was taken for retrenchment of the staff and also the first party failed to place the names of the employees to be retrenched as desired as per the provisions of Rule 77 of the I.D. Act, 1947. The concerned employee contacted Bridge Inspector many

times, for the appointment, but he was told that as and when work will be there he will be called, that the Supreme Court has directed the Railways to maintain the seniority of all the casual labourers on the basis of total days they worked upto 31-12-1980 and had completed work of 1210 days, as per rly. record. Thus his name must appear in the seniority list casted by the Divisional Railway Manager, Baroda on 31-12-1980. Shri Kuldeep Singh was on job on 31-12-80 and had completed work of 1210 days as per rly record and his name must appear in the seniority list casted by the Div. Rail Manager, Baroda on 31-12-80. This error of the railways deprive the workman of his chance of temporary/permanent appointment due to de-casualisation of labour done over the railways. The Div. Rail Manager was requested to include the name of Shri Kuldeep Singh in the seniority list published on 12-3-87 at Sr. No. 9288 as it was the administrative error, but it refused to include his name and that action of not including the name of Kuldeep Singh in the seniority list of casual labour was nothing but the victimisation of employee by way of denying him his rights, for which he was due, especially when it was the administrative error. Hence this reference.

5. The first party filed written statement at Ex. 8 and also at Ex. 17 and denied the facts as stated in the statement of claim and raised the points that the claim of the workman is barred by limitation and he has no right to claims preferred by him in the present reference that the present reference against the first party Chief Engineer (C) is not maintainable as he is not the employer as defined under Section 20 of the I.D. Act read with Industrial Disputes Central Rules. It is stated in reply that as per para 28/1 of Rly Manual regarding grant of temporary status to casual labourers who are treated as temporary after completion of six months continuous service is applicable to the casual labourers working on open line, and is not applicable to labourers engaged on construction projects also known as project casual labourers and project casual labourers are granted temporary status in the terms of railway Board's letter dtd. 11-9-1986 in a phased manner and the letter was issued by railway board after the judgement of Hon'ble Supreme Court in the case of Indrapal Yadav's case Vs. Union of India in 1985(2) SCC 648 and thereafter the project casual labourers were granted temporary status with effect from 1-1-1981, 1-1-1982, 1-1-1984 etc. on the basis of total number of days of service rendered by project casual labourers in terms of the said letter and he has also specified the other requirements like medical examination and he cannot be called as a railway employee as he has not passed the medical examination, though he was granted TS with effect from 1-1-1982 he had not passed the prescribed medical examination and hence he is not entitled to all privileges as per rules as he was unauthorised absent since 23-9-1982 and circular to grant TS was circulated by railway board in September, 1986. In reply it is also denied that the workman was retrenched by Project Inspector from 23-9-1982 and as such question of following the procedure laid down in section 25F and rule 77 of the I.D. Act did not arise. It is stated that the employee never contacted Bridge Inspector after 24-9-1982 and no assurance was given by the Project Inspector to the employee for re-engagement on availability of work as a matter of fact the employee never turned up after

24-9-1982. Though Board has prepared a claim for absorption of Project casual labourers in the year 1984 and it contained the provision for grant of temporary status to the Project Casual labourers in phased manner and the claim was approved by the Supreme Court with certain modification in the Indrapal's case and as per the claim there was also provision of preparing a combined division-wise seniority list of Project casual labourers services to the initial place of engagement known as originating division and as per railway record, the concerned employee had put in only 1095 days service on 31-12-1980 and had absconded from work at his own accord from 23-9-1982 and was not in employment when the Indrapal's case was delivered and therefore it is denied that there is any error on the part of the railways in not including the name of the employee in the seniority list as on 31-12-1980 and it is submitted that the combined seniority list was prepared and published by the Baroda Division on 12-3-1987 and while preparing the list of Project casual labourers the name of the employee Kuldeep Singh was not considered as he was not on roll when the seniority list was prepared. It is stated the second party has left the job on his own accord from 23-9-1982 and as such he was not eligible to be included in the combined division-wise seniority list of 12-3-1987 and the list was prepared in accordance with the instructions issued by railway board as well as headquarter office. It is stated that the General Manager (E), Western Railway, Churchgate has issued instructions vide order dt. 9-2-1988 in reference to the Railway Board's letter dt. 2-3-1987 and 4-3-1987 for preparation of live casual labour register of casual labourers who were discharged before 1-1-1981 for want of work or due to completion of work and not re-engaged thereafter, and the concerned workman was not discontinued from 2-3-1982 for want of work or due to completion of work and not re-engaged thereafter and his name should not be included in the live register of casual labourers and in view of this, reference should be rejected.

5. At the stage of evidence the second party produced following documents, vide list Ex. 14 as under:

1. Copy of letter No. VTA/E/932/1 of June, 1990 (Ex. 19).
2. Two xerox copy of service card page Nos. 6, 7, 8 & 9 (Ex. 18).
3. Copy of letter No. E/523/1/ADI of Feb., 1990 (Ex. 20).
4. Copy of letter No. E/523/1/ADI of 20-2-1990, (Ex. 21).
5. Copy of statement of Kuldeep Singh dt. 5-8-1985 (Ex. 22).
6. Copy of statement of Shri Satnam Singh dt. 5-8-1985 (Ex. 23).

and also examined the workman Shri Kuldeep Singh on oath at Ex. 24.

6. The second party produced documents as under :

1. Letter of Div. Rail Manager dated 2-6-92 at mark 12/1.

2. Letter of Chief Engineer (C), Ahmedabad dated 26-9-86 (Ex. 29).
3. The application of the concerned workman dated 12-3-1991 (Ex. 38).
4. Copy of thumb impression register at mark 42/1.
5. Copy of letters dated 12-3-80 & 4-3-87, vide list Ex. 48 and has also examined witness Ratilal Motilal Parikh at Ex. 30 and witness S. S. Rama Rao at Ex. 41.

7. I have heard the arguments of both the parties.

8. Mr. B. K. Sharma for the second party referred to some documents of the first party and vehemently submitted that the documentary evidence itself proves that the concerned casual labourer was given temporary status and thereafter he was instructed by the officer not to come on work and therefore the first party should have followed the procedure as per Section 25F of the I.D. Act. It is the submission of Mr. Sharma that the concerned workman worked upto 23-9-1982 and admittedly for 1744 days as per Ex. 18 and this work was continuous and even the opposition witness also admits that in 1980 the concerned workman was on work and therefore, if that time is considered for the purpose of coming into seniority, then this workman should have been included into the seniority list even as per the judgement of Hon'ble Supreme Court and by not including his name in seniority list the concerned workman was deprived of all the benefits as per seniority. Therefore, the reference should be allowed. Mr. Sharma further submitted that it was the case of railway that workman the service, but there is no evidence regarding abandonment and even documents produced by the first party in this regard indicated that the concerned workman was instructed by the officer even before said statement in enquiry that he should not come on work and it is clear breach of provision of section 25F and documents also show that the concerned workman was relieved due to non-availability of work and in this respect Mr. Sharma also referred to one letter of the first party.

9. Mr. H. B. Shah, for the first party vehemently submitted that right of re-employment of casual labour in case of retrenchment was lost by delay. In this respect Mr. Shah referred to the judgement of Supreme Court published in 1993 LAB IC 1672 in the case of Ratanchandra Samanta vs. Union of India. Mr. Shah further submitted that the concerned workman had not continuously worked and was not regular also and he abandoned the service himself and therefore, he was not entitled to be included in the seniority list as at the time of preparing the seniority list he was not on roll, and moreover only those casual labourers who were discharged due to want of work were to be included in the seniority list and therefore the name of this concerned workman was not included in that list and there is no illegality at all. Mr. Shah submitted that there are no guidelines for persons who were discharged after 1-1-1981. Mr. Shah referred to circular dated 12-3-87 and submitted that every person had to give an application in writing by R.P.A.D., then only it can be considered and in this case no application had

been submitted, and no evidence in this respect is made and the request was first time made in the year 1991. Even if it is held that it was termination it was done in 1982 and the concerned persons ought to have applied in 1987, but he moved in 1991 and therefore there is considerable delay and laches and therefore the whole reference should be rejected. Mr. Shah further submitted that in documents there are many papers showing the irregularity and negligence in attending work and thereafter not turning up for job. Mr. Shah referred to Ex. 24, the deposition of Shri Singh, Ex. 29, railway witness and Ex. 42, thumb impression register. Mr. Shah drew the attention of this Tribunal to the conditions in respect of inclusion in seniority list and they were as under :

1. Person must be employed on project.
2. Person must be in employment on 1-1-81 onward.
3. Person should have been discharged due to want of work or completion of work before 1-1-81.

Then and then he is entitled and there is provision also for representation for these persons and further submitted that in view of these situations, the workman was not entitled to be included in seniority and the reference should be rejected in toto.

10. The issue before this Tribunal to be decided on merits is as to whether the action of the Div. Rail Manager Western Railway, Baroda in not including the name of Shri Kuldeep Singh in the seniority list of casual labour and thereby denying re-engagement is justified. If not what relief he is entitled?

On perusal of record in this matter, it is found that it is the contention of the second party that he was instructed by the Bridge Inspector on 23-9-1982 not to come on work as at present there is no work. The first party has denied this fact. But if we read letter Ex. 20 of Dy. Chief Engineer (E), North Ahmedabad No. E523/1/ADI written in February, 1990, to Asstt. Labour Commissioner (Central), it is found in para 3 that:—

“Shri Kuldeep Singh was formerly working as a daily-rated casual labourer in Ahmedabad area, when many works in falls wing was going on and he was discontinued for want of work at per the policy in vogue at that time. Since there was contraction in the cadre and many seniors to him were also discontinued the question of his calling back did not arise.”

This stand is contradictory to the defence taken by the first party railway itself that the workman was abandoning the work of his own. It is also pertinent to note that it is the stand of the first party that the concerned workman was not instructed not to attend work but he left the job himself and never turned up thereafter. It is seen from Ex. 21, the letter dt. 20-02-1990 in note attached with it at mark 21/1, that Kuldeep Singh Man Singh had complained vide his application dtd 28-12-84 that he had been terminated from service with effect from 23-9-1982 and had requested either for payment of compensation or reinstatement and it is a wonder that in para 2 it is

stated “as desired, enquiry was conducted on 5-8-85 to ascertain the cause which led to alleged removal.” Now this note will falsify the stand of the first party that before 1990 workman had not represented before railway to take him back in job because the application was already filed on 28-12-1984 as per this note and in this so-called enquiry the statement of Shri Satnam Singh was taken and he clearly stated in reply to the very first question that:

Since they were habitual late-comers and habitual absentees I had threatened them a number of time that they need not come to the work if they are to behave like this. However, I had not specifically turned them out, but they absented themselves voluntarily.”

This is a clear instruction for not to come for work and the next question itself suggests that no notice was issued to these persons in respect of their leaving the job on their own accord. In third question it is asked that:

“The above named persons have produced photocopies of your note addressed to XEN(C)-II-ADI in which you have stated that you asked them to go away and never come back to the work.”

Now it is clear from the earlier part of the question that there was some note of Shri Satnam Singh to XEN(C)-II-ADI in which he had stated that he asked them to go away and informed not to come back to the work. So these documents corroborates the case of the second party. As such it is clear that the workman was on work upto 23-9-82 and was instructed by Satnam Singh to go away and never to come back to work. It is also clear that in this respect that Shri Kuldeep Singh had applied on 28-12-84, but instead of considering his claim, the first party started enquiry as to whether he had left the service of his own and whether he was remaining absent. Therefore it is difficult to agree with the submissions of Mr. Shah that this concerned workman abandoned service voluntarily and his representation is time-barred and the reference should be rejected on the ground of delay and laches, because the documents of railway cleared the position in this respect. Now the Project casual labourer who were on roll on 1-1-1981 were to be included in seniority list and clearly this workman was in job upto 23-9-1982 and his name also should have been included in seniority list, but instead he was not included in seniority list and he was penalised on the ground that he remained absent and abandoned service of his own, without giving him any show cause notice in this respect regarding absenteeism. Admittedly he was given temporary status from 1-1-1982 and as per the railway though he was not entitled for temporary status he was given temporary status. Thus he was entitled for all the benefits available to workman having the temporary status and therefore he was entitled to be included in seniority list and by not including him in seniority list, the first party railway had deprived him all the benefits he would have become entitled to had his name would have been included in seniority list and hence the reference deserve to be allowed. When documentary evidence makes the case clear there is no need of discussing the oral evidence at length particularly when oral evidence also partly corroborates the case of the second party.

In view of above circumstances I pass the following order.

### ORDER

The reference is allowed. The first party Railways, Western Railway, Ahmedabad is hereby directed to re-engage the concerned workman with back wages and due status in the seniority list and also with all the benefits admissible as per his seniority position. The first party is also directed to pay Rs. 1,000 towards cost to the second party. This award is to be implemented within one month from the date of publication.

Ahmedabad, 6-11-1998.

D. V. JOSHI, Presiding Officer

नई दिल्ली, 24 नवम्बर, 1998

का.आ. 2706-अ औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वैस्टर्न रेलवे, राजकोट के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण अहमदाबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-11-98 को प्राप्त हुआ था।

[सं. एल-41012/87/91/आई.आर.डीयू/बी-1]  
सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 24th November, 1998

S.O. 2706.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Ahmedabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Western Railway, Rajkot and their workman, which was received by the Central Government on 19-11-1998.

[No. L-41012/87/91-IR (DU)/ (B-1)]

C. GANGADHARAN, Desk Officer

### ANNEXURE

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL (CENTRAL) AT AHMEDABAD

Shri D. V. Joshi, Member.

Ref. (ITC) No. 15 of 1992

1. General Manager, Western Railway, Head quarters Office, Churchgate, Bombay.
2. The Divisional Rail Manager, Western Railway, Rajkot ... 1st Party

Versus

Its workers, through Zonal Secretary,  
Paschim Railway Karamchari Parishad,  
E/27 Railway Colony, Himmatnagar ... 2nd Party

### APPEARANCES :

Shri H. B. Shah, Advocate--for the first party.  
Shri S. B. Nigam, Advocate--for the second party.

### AWARD

This industrial dispute between the above-named parties has been referred for adjudication under Section 10(1)(c) of the I. D. Act, 1947 by the Desk Officer, Government of India, Ministry of Labour, New Delhi's Order No. L-41012/87/91/IR (DU) dated 16-7-1992 as per schedule attached to the terms of reference as under :

"Whether the action of the Railway Administration through Divisional Railway Manager, Western Railway, Rajkot and others in not appointing Shri Vipulkumar C. Modi on compassionate ground is justified? If not, what relief the concerned candidate is entitled to?"

Under an appropriate order this reference has been transferred to this Tribunal to proper adjudication.

2. The second party has filed statement of claim at Ex. 6 and prayed to direct the first party to appoint Shri Vipulkumar C. Modi, son of late Shri Chandulal C. Modi on compassionate ground to a post for which he has qualification. The facts of the case of the second party, to be briefly stated, are as under :

Shri Vipulkumar Mody's father late Shri Chandulal Modi was a cleaner class IV employee in the office of loco Foreman Mehsana, under the control of Divisional Railway Manager, Rajkot and while he was in service he suffered from cancer and expired on 20-3-1974 and at that time his son Shri Vipulkumar Modi was minor. As per extent Railway rules a widow is entitled for appointment on compassionate ground and since Shri Vipulkumar Modi was minor at that time and attained the age of 18 yrs. only on 16-5-87, his mother, widow of late Shri Chandulal Modi who was also a class IV employee in Railways applied for the appointment of her son on compassionate ground and that application was received on 6-4-1988; that the Divisional Railway Manager replied on 20-5-88 to the widow as under :

"You failed to approach this office for employment in favour of your son immediately after he attained the age of 18. In view of the above it is regretted that your request cannot be considered for giving employment to your son on compassionate grounds."

A widow of Class IV employee has her limited social area and the changes in the rules after the death of employee were not known to the widow. The railway which has its machinery of welfare and personnel branch failed to apprise the widow about the new rules which were framed after the death of the employee, and this resulted that the application for the appointment was moved late by 4 months and 20 days as per new rules. It is the case of the second party that the person is entitled for the appointment only after 18 years and accordingly the widow applied for the appointment of her son when he completed the age of 18 years and the application was turned down by the railway on the ground of delay and as per old rules the appointment can be had by having the relaxations. So the applicant should have been given the benefit of relaxation. It is further stated that the employee was suffering from cancer, which took the man and money both and even then his widow brought up her child; so the minor error of delay of 4 months and 20 days can be waived by the authority in such cases and compassionate appointment should be given to the son of the ex-employee i.e. late Shri Chandulal Modi.

3. The first party has filed written statement at Ex. 7 and raised the point that the reference is not maintainable at law; that the present reference is bad for want of necessary and appropriate party; that the present dispute is not an industrial dispute as contemplated under section. 2K of the I.D. Act; that the Union has no locus standi to raise such kind of dispute as the concerned person is neither a workman nor an



employee of the railway administration and also not a member of the Union. It is further stated in the reply that Shri Chandulal Modi, father of Vipulkumar Modi was working as cleaner, who expired on 20-3-74, but the fact that he was suffering from cancer is not admitted and the claim of the second party regarding compassionate appointment is not tenable as the first party has laid down the policy matter to appoint on compassionate ground vide railways Board's letter No. E(NG)-1-F-84/RCL 26 dated 14-8-1983, and Shri Vipulkumar Modi was minor at the time of death of his father and that he attained majority i.e. completed 18 years on 16-5-87 and as per extent policy of Railway Board to appoint ward/widow on compassionate ground. It is not mandatory to give employment or it is not the right which automatically gives employment to the ward/widow of the deceased employee as per the policy framed by railway board. A request for compassionate appointment should have been received by the railway administration as soon as son/daughter become major or within the period of six months and Shri Vipulkumar failed to make application to appoint him on compassionate ground on or before 16-11-1987 i.e. within six months after attaining the age of 18 years on 16-5-1987, and the application to appoint Shri Vipulkumar Modi on compassionate ground made by widow Taraben on 6-4-1988 i.e. after the lapse of six months and in view of the same the request is not tenable and reply accordingly, therefore the reference should be rejected.

4. In this reference the second party has declared that it did not want to produce any oral evidence by filing pursis Ex. 9. The first party also filed pursis Ex. 10 declaring that it did not want to lead any oral evidence as documentary evidence is produced. The first party has produced xerox copies of circulars for appointment on compassionate ground at Ex. 12 to 15 and also produced the application of Taraben, the mark sheets of Shri Vipulkumar Modi, the reply to application of Taraben at Ex. 18 to 20 respectively.

5. The second party has filed written arguments at Ex. 16, in which it repeated the facts of its case for Shri Vipulkumar Modi regarding compassionate appointment and submitted further that the scheme exists wherein the ward of deceased employee who expired during service are given appointment and under the scheme Shri Vipulkumar Modi requested for his appointment and his father Shri Chandulal Modi expired during his service and the railway administration denied the appointment on the technical point of delay by 4 months and 20 days only and this dispute is maintainable under the I.D. Act, even when a person may not be workman, but may be interested in the dispute and in this case Shri Vipulkumar Modi is directly the interested party and these views were given by Justice S. K. Das in the case of workman of Dimakuchi Tea Estate (1958 SCR 1156) the second party further submitted that when Shri Vipulkumar Modi attained the age of 18 years, his mother moved the application of her son for the appointment on compassionate ground and the railways replied that the appointment of her son cannot be considered as she failed to approach the railways immediately after his son attained the age of 18 years the similar case was before Patna High Court. The case of Brijendra Prasad Poddar vs. State of Bihar (1991 LAB IC 959) in which the application was late and therefore it was rejected on the ground that limitation of 2 years expired and the Court observed that the situation was beyond the control of the applicant as he was minor for such technical objections will be a fly in the cup. The Court ordered to give him appointment within two years from the date of order. It is submission of the second party that it is not right to say that it is not mandatory, but railways should give him employment in view of the position in the case of Dinesh Aoi v. District Inspector of position in the case of Dinesh Rai v. District Inspector of of the State Government to create a post and appoint the heir. The second party has also referred to the judgement of Allahabad High Court in the case of Shailesh Kumar Pandey vs. State of U.P. [1992 (2) LAB LJ 237] in which it is held that the intention of the rule that the persons are not only given appointment on the death of bread winner but such appointment should be to such a post for which the person applied is really eligible and competent, and it is further submitted by the second party that the late submission of the application by 4 months and 20 days, if not condoned the basic policy of the appointment on compassionate ground will fail.

6. Shri H. B. Shah for the first party has raised some legal points in written statement and the same are touching the foundation of the case and the Tribunal should consider

these grounds in order to dismiss the reference. Mr. Shah further submitted that the present dispute does not fall within the purview of industrial dispute as defined under Section 2(k) of the I.D. Act and there is no relationship of employer and employee between the railway and the interested party Shri Vipul Modi and the claim of the second party is barred by limitation as applicant has not sent the application within the stipulated time and therefore also the claim for appointment on compassionate ground should be rejected. Mr. H. B. Shah cited 1993 AB IC 16/2 (SC) the case of Ratanachandra Samantha vs. Union of India, 1958 SCR p. 1136 and 1970 (1) MLJ p. 433. Mr. Shah submitted that the Tribunal has no jurisdiction to adjudicate the dispute which does not fall under the definition of Industrial dispute under the provisions of I.D. Act.

7. In this particular reference some facts are admitted. It is an admitted fact that Shri Chandulal Modi, railway servant was expired while he was in service. It is also admitted that at that time his son Shri Vipul Modi was minor. It is also admitted that after Vipul Modi attained the age of 18 years his mother sent application for appointment of her son in railway on compassionate ground, but it was not within six months after Vipul Modi attained the age of 18 years and it was late by 4 months and 20 days. Now on perusal of record it is found that the first party railway has rejected the claim of the widow of late Shri Chandulal Modi solely on the ground of delay in approaching railway and she was replied that as she had not sent application within six months after her son attained majority, her claim is not sustainable in view of the circulars of the Railway and it is the issue before this Tribunal whether the act of the Railway in not appointing Shri Vipulkumar Modi on compassionate ground is legal or proper. On perusal of the record it is found that there are some copies of letter of Railway Board issued to all concerned regarding the compassionate appointment and it is alleged that these are circulars indicating the policy of the letter dated 29-5-1979, which stipulated 5 years time employees who expired while in service. Ex. 12 is the copy and it an appointment could not be made within 5 years due for keeping such pending cases in which daughter/son is minor and if an application could not be made within 5 years due to the son/daughter being minor railways may personally authorise relaxation of 5 years limit in deserving cases. It is pertinent to note that as time limit is stipulated in this letter as to within which time the application should be presented after minor attaining majority i.e. 18 years. Second one is the letter dated 18-2-1981 which also does not stipulate such time limit. Third one is the letter dated 18-4-1985 (Ex. 14) in which there is provision in sub-para on page (2) as under :

“(vii) The request for compassionate appointment should have been received by the Railway Administration as soon as the son/daughter to be considered for compassionate appointment has become a major, say within a maximum period of six months.”

Now it should be noted that the word “say” within a maximum period of six months do not contemplate fix period of six months as the meaning of words “say” in context of whole sentence should be taken as “for example” and it should be construed thus that the request for compassionate appointment should have been received by the Railway Administration as soon as son/daughter to be considered for compassionate appointment has become a major, for example within a maximum period of six months and this clause shows the meaning of words as soon as son/daughter has become major. Thus there is no hard and fast rule behind this clause preventing the railway administration from giving relaxation in proper cases and it should be noted that this is a letter and not law. It is also pertinent to note that in this letter earlier provision of relaxation of the limit of 5 years in deserving cases is kept continued. So it is possible for railway administration to give relaxation in proper cases; and therefore it is not possible for this Tribunal to hold that rejection of the claim for compassionate appointment is justified on the ground of policy allegedly decided in this so-called circulars. However, admittedly delay is only of 4 months and 20 days and that too by the widow of the ex-employee and on perusal of the letter rejecting her claim, it is clear that the application was rejected on a technical ground of delay in approach and also on the ground that the application was to be considered within a period of 5 years from the death of the ex-employee. But as discussed earlier this limitation of six months is not hard and fast in view of the words exercised in this clause and so far as provision of



consideration within 5 years is concerned, the powers are delegated to GM in respect of any relaxation and are from time to time extended upto 31-3-1994 as appears from letter Ex. 15 and therefore the first party is not justified in rejecting the claim of the compassionate appointment on the ground of delay. It is pertinent to note that this kind of provisions should be construed liberally in favour of the weaker persons, as these provisions are welfare provisions and if the liberal views are not taken the very purpose behind these provisions would be frustrated. The Hon'ble Supreme Court of India observed in the case of Dineshrai, vs. District Inspector of Schools, 1991 LAE SC 739 that the purpose of giving appointment on compassionate ground is to mitigate the hardship due to the death of bread earner in the family and it was mandatory on the part of the State Government to create a post and appoint the heir, if there is no post. Mr. H. B. Shah, raised the technical point that it is not industrial dispute and the second party cannot raise the dispute on behalf of the person who is not a workman. In this respect the Hon'ble Supreme Court in the case of Keys Construction Company vs. its workmen AIR 1959 SC 208 has held that :

"The dispute which validly gives rise to reference under the Industrial Disputes Act need not necessarily be a dispute directly between an employer and his workman. The definition of the expression industrial dispute is wide enough to cover a dispute raised by the employer's workman in regard to the non-employment of others who may not be his workman at the material time."

In the same judgement the Hon'ble Supreme Court observed that :

"The industrial Tribunal should not be unduly influenced by academic questions of law and they should make an attempt to deal with the merits of each case according to its facts and circumstances. The functions of Industrial Tribunal while adjudicating upon disputes referred to them, for adjudication are quite different from those of arbitration tribunals that deal in matters of commercial dispute."

In view of all these circumstances there is no force in the submission of Mr. Shah regarding the untenability of the reference. Further the Hon'ble Gujarat High Court also has observed in the case of management of Bank of Baroda vs. workmen of Bank of Baroda in 1977 GLR 335 that in case of the death of the workman, legal right in the matter of industrial dispute survives to the administrators, executors and legal representatives. In view of this judgement also the second party has right to raise the dispute on behalf of the heirs of the deceased workman and therefore the reference is tenable at law and in the circumstances of the case of the second party, as discussed earlier, the reference deserves to be allowed. In view of above discussion I pass the following

#### ORDER

The reference is allowed. The action of the railway administration through the Railway Divisional Manager, Western Railway, Rajkot in not appointing Shri Vipulkumar Chandulal Modi on compassionate ground is declared as not justified and the first party is hereby directed to appoint Shri Vipulkumar Chandulal Modi, son of late Shri Chandulal Modi on the compassionate ground to a post for which he has qualification. The first party is also hereby directed to pay Rs. 1,000 (Rupees one thousand only) towards cost of the reference to the second party. This award is to be implemented within one month from the date of publication.

D. V. JOSHI, Presiding Officer

8661-II-L 'pqapqumyv

नई दिल्ली, 24 नवम्बर, 1998

का.आ. 2707.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल रेलवे, भोपाल के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच,

अनुबन्ध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-11-98 प्राप्त को हुआ था।

[सं. एल-41012/98/91-डी-2(बी) बी-I]

सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 24th November, 1998

S.O. 2707.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Railway, Bhopal and their workman, which was received by the Central Government on the 20-11-98.

[No. L-41012/98/91-D-2(B)|B.I.]

C. GANGADHARAN, Desk Officer

अनुबन्ध

केन्द्रीय औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर  
म. प्र.

डी.एन. दीक्षित

पीठासीन अधिकारी

प्र० क्र० सी जी आई टी/एल सी/आर/89/92

श्री सुरेशचन्द्र मिश्रा,

आत्मज श्री स्वामीप्रसाद मिश्रा,

आर./372/29(1), सिविल लाईन,

कांसी-284001

विरुद्ध

चीफ इलेक्ट्रिकल इंजीनियर,

रेलवे इलेक्ट्रिफिकेशन, सेंट्रल रेलवे,

भोपाल-462001

... प्रार्थी

प्रतिप्रार्थी

अवार्ड

दिनांकित : 29 अक्तूबर, 1998

1. भारत सरकार, श्रम मंत्रालय, नई दिल्ली ने अपने आदेश संख्या एल-41012/98/91-डी-2(बी) दिनांक 4-5-92 के द्वारा निम्नलिखित विवाद निराकरण हेतु इस अधिकरण को भेजा है :—

अनुसूची

"Whether the action of Chief Electrical Engineer R/E Central Railway, Bhopal in terminating the services of Shri S. C. Mishra s/o Sh. Swamy Prasad Mishra without any charge sheet, inquiry is justified? If not, for what relief the workman is entitled for?"

2. श्रमिक सुरेशचन्द्र मिश्रा के अनुसार वह टेक्नीकल ग्रेड के पद पर दिनांक 5-11-86 से कार्य कर रहा था। उसे दिनांक 29-11-87 के आदेश के द्वारा टेम्पोरेरी स्टेटस दिया गया। श्रमिक छुट्टी में दिनांक 19-12-88 से 13-11-90 तक बीमारी के कारण रहा। श्रमिक ने समय-समय

पर डॉक्टरों सर्टिफिकेट बीमारी के संबंध में प्रबंधन को भेजा है। श्रमिक ने दिनांक 14-11-90 को जब काम प्रारम्भ करना चाहा तो उसे बताया गया कि उसकी सेवाएं दिनांक 16-8-89 से समाप्त कर दी गई हैं। सेवा समाप्ति से पहले श्रमिक के विरुद्ध विभागीय जांच नहीं की गई तथा नोटिस भी नहीं दिया गया। श्रमिक की सेवा समाप्ति का आदेश अवैधानिक है तथा निरस्त होने योग्य है। श्रमिक की सेवाओं की समाप्ति छटनी की परिभाषा में आयोगी और छटनी से पहले उसे नोटिस नहीं दिया गया और छटनी मुआवजा भी नहीं दिया गया, इस कारण उसकी सेवा समाप्ति का आदेश अवैधानिक है तथा निरस्त होने योग्य है। श्रमिक चाहता है कि उसे 16-8-89 से पुनः सेवा में लिया जाए और नियमों के अनुसार वेतन और भत्ते दिये जाएं।

3. प्रबंधन के अनुसार श्रमिक ने बीमारी का इलाज रेलवे के डॉक्टरों से नहीं कराया। बीमारी के पश्चात श्रमिक ने रेलवे डाक्टर से फिटनेस सर्टिफिकेट प्राप्त नहीं किया। नियमों के अनुसार जब भी श्रमिक बीमार पड़ता था, उसे 24 घंटे के अन्दर प्रबंधन को सूचना देनी होती थी। श्रमिक ने ऐसा नहीं किया। श्रमिक अकारण ही अनुपस्थित हो गया, इस कारण उसे सेवा से पृथक किया गया। श्रमिक की गलती के कारण उसने अपनी नौकरी से हाथ धोया। प्रबंधन चाहता है कि श्रमिक कोई भी सहायता पाने का अधिकारी नहीं है।

4. वर्तमान प्रकरण में पेशी दिनांक 3-6-97 की सूचना प्रबंधन के अधिभाषक को दी गई थी। इस दिन प्रबंधन अनुपस्थित रहा। इसके बाद की पेशी 19-8-97, 7-10-97, 1-12-97, 15-1-98, 9-3-98, 13-5-98, 13-8-98 और 22-10-98 को भी प्रबंधन इस न्यायालय में उपस्थित नहीं हुआ। ऐसी स्थिति में प्रबंधन के विरुद्ध एकपक्षीय कार्यवाही की गई।

5. श्रमिक ने अपना शपथ-पत्र प्रस्तुत किया तथा अपने कथन की पुष्टि की। श्रमिक ने प्रदर्श-डब्ल्यू-1 से लेकर डब्ल्यू-17 के लेख न्यायालय में प्रस्तुत किये। इन लेखों से श्रमिक के कथन की पुष्टि होती है। श्रमिक ने यह सिद्ध कर दिया कि वह दिनांक 29-12-88 से 13-11-90 तक बीमार था और उसने अपनी बीमारी का सर्टिफिकेट समय-समय पर प्रबंधन को भेजा। प्रबंधन ने उसकी सेवाएं 16-8-89 से समाप्त की। सेवा समाप्ति के पूर्व प्रबंधन ने श्रमिक की बीमारी के संबंध में कोई जांच नहीं की और कोई श्रमिक कोई नोटिस नहीं दिया। नियमों के अनुसार नोटिस और जांच दोनों आवश्यक था। श्रमिक नियमित कर्मचारी था और उसका सेवा समाप्ति का आदेश रिट्रैन्समेंट के लिए उसे न तो एक माह का नोटिस दिया गया और न ही छटनी मुआवजा दिया गया। ऐसी स्थिति में श्रमिक की सेवा समाप्ति का आदेश 16-8-89 अवैधानिक है इसका प्रभाव यह है कि श्रमिक अभी भी प्रबंधन की सेवा में है और 16-8-89 से अभी तक वेतन और भत्ते पाने का अधिकारी है।

6. अर्वाइ दिया जाता है कि श्रमिक की सेवा समाप्ति का आदेश दिनांक 16-8-89 अवैधानिक है तथा इसे निरस्त किया जाता है। श्रमिक 16-8-89 से अभी तक प्रबंधन की सेवा में कार्यरत है और उसे निम्न के अनुसार वेतन और भत्ता इस अवधि का पाने की पात्रता है तथा वार्षिक वेतन वृद्धि भी पाने की पात्रता है। अर्वाइ मुद्रित होने के तीन माह के अन्दर सभी राशियों का भुगतान श्रमिक को किया जाए। अगर इस अवधि में भुगतान नहीं होता है तो तो इस अवधि से भुगतान के दिनों तक श्रमिक इसकी हुई राशि पर 12 प्रतिशत प्रतिवर्ष की दर से व्याज पाने का अधिकारी है। दोनों पक्ष इस प्रकरण का अपना-अपना ध्येय वहन करें।

7. नियमानुसार अर्वाइ की प्रतियां भारत सरकार, श्रम मंत्रालय, नई दिल्ली को प्रेषित की जाती है।

डी.एन. दीक्षित, पीठासीन अधिकारी

नई दिल्ली, 24 नवम्बर, 1998

का. ग्रा. 2708:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सर्वेन रेलवे, बंगलौर के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कम-सेबर कोर्ट, बंगलौर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-11-98 को प्राप्त हुआ था।

[सं. एल.—41012/104/94—आई आर (बी. 1)]

सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 24th November, 1998

S.O. 2708.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Southern Rly., Bangalore and their workman, which was received by the Central Government on the 20-11-98.

[No. L-41012/104/94-IR(B-I)]  
C. GANGADHARAN, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT, BANGALORE

Dated 23rd October, 1998

PRESENT :

Justice R. Ramakrishna, Presiding Officer.

C.R. No. 69/97

1 PARTY

Shri Pattabi,

C/o Mansoor Raheman, II PARTY  
Booking Clerk, Chief Engineer (Const.)  
Chitradurga Railway Station Southern Railway,  
Chitradurga. Bangalore.

## AWARD

The Ministry of Labour, Government of India having satisfied that an Industrial Dispute exists between the parties referred to above has passed an order vide No. L-41012/104/94-IR(BI) dated 7-8-95 referring the dispute for adjudication on the following schedule.

"Whether the action of Chief Manager, Construction, Southern Railway, Bangalore in not implementing appointment order bearing No. P(CN) 407/11/CTA-RDG dt. 26-2-92 issued to the workman Shri Pattabi, is legal and justified? If not, what relief Shri Pattabi is entitled to and from which date?"

The ordinary notice was received by both parties but they have not appeared. The notice under R.P.A.D. was issued and both parties acknowledged the receipt and noted the date of hearing as on 1-1-98. However the case was adjourned to enable the parties to appear and participate in the proceedings. Due to the failure on part of the parties the fresh notice under RPAD issued to both parties. The second party acknowledged the receipt of the notice but the notice issued to the first party returned unserved at the addressee left the place.

In these circumstance this dispute can not be adjudicated consequently the reference is rejected.

Justice R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 24 नवम्बर, 1998

का. भा. 2709.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उत्तर रेलवे, पटियाला के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कम-खेबर कोर्ट, चंडीगढ़ के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-11-1998 को प्राप्त हुआ था।

[सं. एल.—41012/219/95—आई आर (बी) / बी. 1]  
सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 24th November, 1998

S.O. 2709.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Northern Rly., Patiala and their workman, which was received by the Central Government on the 18-11-1998.

[No. L-41012/219/95-IR(B)BI]  
C. GANGADHARAN, Desk Officer

## ANNEXURE

BEFORE SHRI B. L. JATAV, PRESIDING  
OFFICER, CENTRAL GOVT. INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT,  
CHANDIGARH

Case No. ID 94/97

Ashok Kumar Jha son of Shri Natheshwar Jha  
311-A, Guru Teg Bahadur Nagar  
— Applicant

Versus

Asistant Works Manager (TE) Diesel Component Works, Northern Railway, Patiala.  
— Respondent

Appearances :

For the workman.—Workman in person

For the management.—None

## AWARD

Dated 24th August, 1998

The Central Govt. vide gazettee notification No. L-41012/219/95-IR(B) dated 21st January 1997 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of D.C.W. Patiala in terminating the services of Shri Ashok Kumar Jha w.e.f. 3-9-91 is legal and justified? If not, to what relief the concerned workman is entitled and from what date?"

2. Today the case was fixed for filing of claim statement by the workman. But today the workman appeared and made the following statement :

"My case has been settled to my satisfaction. I do not want to pursue my case. The same may be returned as not prosecuted."

3. In view of the above recorded statement of the workman, the present reference is returned to the Ministry as settled. Ministry be informed.

B. L. JATAV, Presiding Officer

नई दिल्ली, 27 नवम्बर, 1998

का. भा. 2710.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उत्तर रेलवे, इलाहाबाद के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-11-98 को प्राप्त हुआ था।

[सं. एल.—41012/160/97—आई आर (बी. 1)]  
सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 27th November, 1998

S.O. 2710.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the

Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Uttar Railway Allahabad and their workman, which was received by the Central Government on the 24-11-98.

[No. L-41012/160/97-IR(B-I)]  
C. GANGADHARAN, Desk Officer

#### ANNEXURE

BEFORE SHRI B. K. SRIVASTAVA PRESIDING  
OFFICER CENTRAL GOVERNMENT INDUS-  
TRIAL TRIBUNAL-CUM-LABOUR COURT,  
DEOKI PALACE ROAD, PANDU NAGAR,  
KANPUR

Industrial Dispute No. 95 of 1998

In the matter of dispute

#### BETWEEN

Sri Dina Nath Tiwari,  
Mandal Sanghatan Mantri,  
Uttar Railway Karamchhari Union,  
119/74, Naseemabad, Kanpur.

#### AND

Mandal Rail Prabandhak,  
Uttar Railway,  
Allahabad Mandal,  
Allahabad.

Appearance :

Shri R. S. Tiwari for the workman.

None for the Management.

#### AWARD

1. Central Government Ministry of Labour New Delhi vide its Notification No. L-41012/160/97-I.R. (B-I) dated 16-6-98 has referred the following dispute for adjudication to this Tribunal :

Kya Mandal Rail Prabandhak Uttar Railway Allahabad Ke Dwara Sri Ramesh S/o Sita Ram Ko 1994 Se Chaprasi Ke Pad Se Lipik Pad Me Padomnit Dena Uchit Aur Vaidhanik Hai ? Yadi Nahi To Sambandhit Karmkar Kis Anutosh Ka Hakdar Hai ?

2. The case of the concerned workman Ramesh is that he was engaged as Khallasi on 7-3-79. As he was injured on duty and as he was matriculate he was assigned the duty of peon. He was confirmed on this post w.e.f. 11-3-80 by letter dated 26-6-86. Some time he used to perform the duty of clerk. From 1983 he had been requesting for promotion and also showing his willingness to appear in test but he was not given opportunity. Such test was taken place between 27-4-94 to 29-4-94 but the same was cancelled. There after he filed a case No. 674 of 1994 before CAT which had directed the Opposite Party Railway to decide his representation within two months but the same has not been done. Hence he is entitled for the post of clerk from 1994.

3. The opposite party has not file any written statement inspite of repeated opportunity having been given to them.

4. In support of his case the concerned workman Ramesh WW(1) examined himself. From his evidence it become clear that he was not clear the test. Hence in my opinion he will not be entitled for promotion. If the Railway has not complied with the direction of CAT it was open to the concerned workman to have applied for contempt.

5. In view of above discussion my award is that the concerned workman is not entitled for promotion to the post of clerk but I direct the opposite party Railway to hold test of the concerned workman for the post of clerk within one year of the publication of award. In case the opposite party railway failed to do so the concerned workman will be deemed to have been promoted as clerk after expire of one year from the date of publication of award.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 27 नवम्बर, 1998

का. आ. 1711.—औद्योगिक विवाद अधिनियम, 1947 ( 1947 का 14 ) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नौदल रेलवे, मरावाबाद के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-11-98 को प्राप्त हुआ था।

[सं. एल.-41012/83/94-आई आर (बी-2)/ बी. I]

सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 27th November, 1998

S.O. 2711.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Northern Rly., Moradabad and their workman, which was received by the Central Government on the 24-11-98.

[No. L-41012/83/94-IR(B-2)](B.I.)  
C. GANGADHARAN, Desk Officer

#### ANNEXURE

BEFORE SHRI B. K. SRIVASTAVA, PRESIDING  
OFFICER CENTRAL GOVT INDUSTRIAL TRI-  
BUNAL-CUM-LABOUR COURT, DEOKI  
PALACE ROAD, PANDU NAGAR, KANPUR

Industrial Dispute No. 92 of 1995  
In the matter of dispute

#### BETWEEN

Zonal Working President,  
Uttar Railway Karamchhari Union,  
96/196, Roshan Bajar Ganesh Ganj,  
Lucknow.

AND

Senior D.S.T.E.  
Northern Railway,  
Moradabad.

Appearance :

Shri P. K. Tiwari for the workman.  
Shri Hamid Qurishy for the Management.

## AWARD

1. Central Government Ministry of Labour, New Delhi, vide its Notification No. L-41012/83/94-IR (B-2) dated 19-7-95 has referred the following dispute for adjudication to this Tribunal :

"Whether the action of the Deptt. of Railway by discharging Shri K. B. Saxena, Electric Signal Maintainer from services w.e.f. 29-12-82 is legal and justified? Whether the period from 29-12-82 to 13-3-89 is to be considered as on continuous service? And whether the reduction in rank of Shri K. B. Saxena from the post of Electric Signal Khalasi w.e.f. 14-3-89 is legal and justified? If not what relief the workman is entitled to?"

2. In this case earlier ex parte award were given on 24-11-95 against the concerned workman which was later on set aside on this request.

2. The case of the concerned workman K. B. Saxena is that originally he was appointed on 19-12-96 with opposite party Northern Railway under D.R.M. Moradabad. There after he was promoted as Electric Signal Maintainer on 19-12-70. He was removed from service on 29-12-82 illegally in breach of provision of 25F I.D. Act. Later on he was appointed as Khalasi from 29-3-89, which was also illegal. Hence he has challenged his termination by order dated 29-12-82 has claimed wages from 29-12-82 to 13-3-89 on the ground that this period shall be treated as continuous service. Further it is alleged that his reduction to the post of Signal Khalasi w.e.f. 14-3-89 is bad in law.

3. The opposite party has filed reply in which it has been alleged that the concerned workman was sent for training but he fail to satisfy the authority. Hence he was removed from service. There after he himself applied for the post of Khalasi. Accordingly he was given this appointment there was no reduction in rank. He is also not entitled for continuous service from 29-12-82 to 13-3-89.

4. In the rejoinder nothing new has been alleged.

5. First it will be seen by which termination/discharge of the concerned workman w.e.f. 29-12-82 was bad in law. None of the parties have adduced any oral evidence. It was enquired from the Au. Rep. of the Railway as to under what provision the concerned workman was removed from service. The reply of Au. Rep. was that as the concerned workman had failed to clear refresher course he was discharged in exercise of provision of Rule 301 which has mention as Rule 149 of Indian Railway Estt. Manual Code. A bare perusal of this provision is go to show that it is meant for temporary Railway servants, Fur-

ther it does not entitled the railway to remove any servant if he fails to clear the test. Hence in my opinion removal from service by the railway in exercising of this provision is bad in law. Show cause notice ought to have been given. Further it amounts of retrenchment. Hence retrenchment compensation and notice pay ought to have been given. In its absence I am no hesitation to hold that this termination is bad in law.

6. The concerned workman will not be entitled for continuous service and consequent salary for the period from 29-12-82 to 13-3-89 because of belated claim and also on the Principle of "No work no pay".

7. As regards the 3rd issue I do not think it is a case of reduction as the applicant himself applied for the post of Khalasi as is obvious from his application on record.

7. In view of above discussion my award is that concerned workman will be entitled for reinstatement as Signal Electrical Maintainer but will not be entitled for consequential relief for the reason given above.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 27 नवम्बर, 1998

का.मा. 2712-औद्योगिक विवाद अधिसूचक, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, सचिव (सेन्ट्रल रेलवे, हुबली) के प्रबन्धन के संवद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कम-सेबर-कोर्ट, बंगलोर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-11-98 को प्राप्त हुआ था।

[सं. एल-41012/61/93-आई एमए (डीयू)/(बी-1)]

सी. गंगधरन, ईस्क अधिकारी

New Delhi, the 27th November, 1998

S.O. 2712-In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the industrial dispute between the employers in relation to the management of South Central Railway, Hubli and their workmen, which was received by the Central Government on 24-11-1998.

[No. L-41012/61/93-IR (DU)/(B-I)]

C. GANGADHARAN, Desk. Officer  
ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated, the 22nd October, 1998

PRESENT :

Justice R. Ramakrishna, Presiding Officer.  
C.R. No. 30/94

I PARTY :

Shri Iswar Ramanna Arakeji of Hubli.

II PARTY :

The Chief Workshops Manager  
South Central Railway  
Workshop, Hubli.

## AWARD

The Ministry of Labour, Government of India having satisfied that an industrial dispute exists between the workman and the Management of South Central Railway, Hubli has referred this dispute for adjudication on the following schedule.

"Whether the management of Asstt. Works Manager, South Central Railway Hubli is justified in removing Sri Ishwar Ramanna Arakeri, Khalasi from service w.e.f. 23-6-1992 ? If not, what relief the workman concerned is entitled to ?"

The notices are duly served and both parties have taken the assistance of legal practitioner. In spite of 39 adjournments the first party has not cared to file claim statement. Infact the first party noted the date of adjournment on 5-10-1998. On 22-10-98 the 1st Party again remained absent.

In these circumstances the reference is rejected.

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 2 दिसम्बर, 1998

का.आ. 2713—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार (सं. II) मुम्बई के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण में आई. बी. पी. कं. लिमि. के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-12-98 को प्राप्त हुआ था।

[सं. एल-30012/63/97-आई.आर. (सी-I)]  
सी. गंगाधरण, डेस्क अधिकारी

New Delhi, the 2nd December, 1998

S.O. 2713.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. II), Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. I.B.P. Co. Ltd. and their workman, which was received by the Central Government on 1-12-98.

[No. L-30012/63/97-JR(C-I)]  
C. GANGADHARAN, Desk Officer  
ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO. II, MUMBAI  
PRESENT :

Shri S. B. Panse, Presiding Officer.

REFERENCE NO. CGIT-2/89 of 1998

Employers in relation to the management of M/s.  
I.B.P. Co. Ltd.

AND

Their Workmen

APPEARANCES :

For the employer : Shri M. P. Lele Representative,

For the workmen : S/Shri Vinod Nikam and  
R. C. Shetty Representative.

Mumbai, dated 10th November, 1998

## AWARD

The Government of India, Ministry of Labour by its order No. L-30012/63/97-IR(C-I), dated 30th June, 1998 had referred to the following Industrial Dispute for adjudication.

"Whether the action of the M/s. I.B.P. Co. Ltd. to suspend Shri P. D. Salem, Heavy Vehicle Driver working at Sewari without observing the principles of natural Justice is justified? If not, what relief should be granted?"

2. The General Secretary, Petroleum Employees Union, IBP Unit filed a Statement of Claim at Exhibit-5. When the matter was for filing of the rejoinder and documents the parties filed a purshis (Ex-7) contending that they have settled the dispute amicably out of the court and the dispute does not survive. They prayed that under such circumstances it may be disposed off as settled and withdrawn. The purshis is signed by the General Secretary and the Manager who are concerned parties to the reference. It is read and recorded. In the result I pass the following order :

## ORDER

The dispute is disposed off as settled and withdrawn.

S. B. PANSE, Presiding Officer

नई दिल्ली, 2 दिसम्बर, 1998

का.आ. 2714—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार I हैदराबाद के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एच.पी. सी. एल. के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-12-98 को प्राप्त हुआ था।

[सं. एल-20040/81/95-आई.आर. (सी-I)]  
सी. गंगाधरण, डेस्क अधिकारी

New Delhi, the 2nd December, 1998

S.O. 2714.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-I, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of H.P.C.L. and their workman, which was received by the Central Government on 1-12-98.

[No. L-20040/81/95-IR(C-I)]  
C. GANGADHARAN, Desk Officer

## ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-I  
AT HYDERABAD

Present :

Sri C. V. Raghavaiah, B.Sc., B.L., Industrial  
Tribunal-I, Hyderabad.Thursday, the 17th day of September, 1998  
INDUSTRIAL DISPUTE NO. 1 OF 1997

## BETWEEN

Sri C. Laxmanacharyulu, 97,  
S.R.T. Saidabad Colony,  
Hyderabad .. Petitioner

## AND

The Manager, Installation,  
Hindustan Petroleum Corporation Limited,  
P.B. No. 1913,  
Sanathnagar, Hyderabad .. Respondent

This case coming before me for final hearing on 4-9-98 in the presence of Sri A. Krishnam Raju, Advocate for the Petitioner and Sri K. Srinivasa Murthy, Ms. G. Sudha, Advocates for the respondent and having stood over to this day for consideration the Court delivered the following Award :

## AWARD

The Government of India, Ministry of Labour, New Delhi by its order dt. nil January, 1997 vide Letter No. L-20040/81/95-IR (Coal-I) referred the following industrial dispute under Section 10(1)(d) r/w Sec. 2(A) of the Industrial Disputes Act, 1947 to this Tribunal for adjudication.

“Whether the management of H.P.C.L., Hyderabad in terminating the services of Sri Laxmanacharyulu Ex-Casual Clerk with effect from February, 1990 is legal and justified ? If not, to what relief is the workman entitled ?”

1. On being served with notices, both the parties made their appearance through their counsels and filed their pleadings.

2. In the claim statement the petitioner contended that he is a B.Com., graduate and joined as a casual clerk in the respondents company on 22-10-84, that he was working beyond office hours to update bills, ledger and records kept unattended by the regular employees but he was not paid wages on par with the regular employees, and further his wages are paid through separate vouchers every month and that the respondent used to employ him for few days in a particular month of each year and asked to stay back stating that he will be intimated through special messenger or telegrams and he worked like that till February 1990. During the artificial break period he used to attend for interviews but he could not get job as every employer insisted on experience while the respondent refused to give certificate of experience and hence his future is spoiled due to casual employment and intermittent breaks in the service of the respondent and that the respondent is not justified in

insisting on employment exchange sponsorship as he was appointed from time to time and as the management was satisfied with his performance. Hence termination of his service is illegal that respondent failed to absorb him in regular service inspite of repeated request including representations dt. 19-2-87 and the respondent continued his casual service on the pretext that his representation is under the consideration of the head office.

The petitioner contended further that though the respondent gave a certificate that he was employed in the leave vacancy of regular employee it has not mentioned in whose vacancy he was employed, that infact there is heavy work load and as the regular employees are not attending to the same by sitting late hours the respondent has been employing him on casual basis to clear the pending work and he has infact completed the pending work more effectively, and hence he was entrusted with the work of Bharat Petroleum also which is the sister concern of the respondent and he was however paid by the respondent who employed him as casual labour.

He has further contended that the respondent gave advertisement in Deccan Chronicle on 30-10-87 inviting applications for recruitment of 79 posts for their Cherlapalli Plant, that he applied for the said posts, that he attended the interview but due to his misfortune he was not selected inspite of his experience. Again the respondent invited applications for the post of clerk-typist in grade M-08 on 31-1-90 displaying the notice on the notice board with endorsement that only interested persons can apply, that he applied for the said post alongwith others but he was not called even for interview and an enquiry he was informed that his request is pending for consideration with the head office and he could not get employment in any other organisation inspite of experience and as the respondent was giving false hopes from time to time that his request for regular employment is under active consideration.

It is further case of the petitioner that he worked for 278 days in 1985 itself, that the respondent did not issue retrenchment notice, paid retrenchment compensation and the management orally terminated his service when he was on the verge of completing 240 days in the year 1988 and 1989 contrary to the provisions of I.D. Act and with a mala fide intention and it amounts to unfair labour practice and he is entitled for regularisation and all benefits from the date of 1st employment. As the respondent faced deaf ear to his representation to take him into service he filed W.P.M.P. No. 9005/89 and the Hon'ble High Court gave direction to the respondent to employ him for the time being in the same manner pending disposal of the Writ Petition. But the respondent did not comply with the above direction and the Writ Petition was later dismissed in 1990 for default. He approached the Conciliation machinery for regularisation but of no avail. He has also contended that he has big family to maintain and that his father died in 1996 due to mental agony as he is unemployed even to this day.

The petitioner thus prayed to declare that the termination of his service in February 1990 is unjustified as the same is in violation of Sec. 25-F of the

I.D. Act and to direct the respondent management to reinstate him with backwages and interest at 12 per cent per annum and other attended benefits.

3. The respondent management filed a detailed counter while admitting that the petitioner worked as casual clerk with it from 1984 to 1989 intermittently and whenever there is leave vacancy and exigency of service it denied that petitioner worked in any permanent vacancy, that he worked for 278 days in the year 1985 and contended that it could not provide work to the petitioner subsequent to 1989 as there was no casual work after May, 1989. It admitted that the petitioner filed Writ Petition and the Hon'ble High Court gave direction. It contended that for the period the petitioner worked he was paid bonus and the record would clearly show that he has not worked for 240 days in any calendar year, as such he is not entitled to any relief and there is no violation of provision of Sec. 25-F of the Act. It denied that petitioner used to work late hours in the evening as the regular employees failed to attend to duties but was paid lesser wages. It contended that there are recruitment rules and procedure for the respondent which is a Government undertaking, but for taking casual employees the recruitment rules need not be followed. According to it as per rules in case of vacancy in non-management post it has to advertise, follow rules of reservation. It contended that as the petitioner acquainted with its office work he was employed as and when required by giving preference but the said fact does not confer right on him for absorption as regular employee.

It admitted that petitioner gave representation for regularisation, that he applied for same posts pursuant to advertisement but was not selected and contended that unless the petitioner pass through the recruitment procedure he cannot ask for regularisation. It denied that artificial breaks are given. It denied that assurance given to the petitioner from time to time that his request for regular employment is under the consideration of Head office at Bombay as the concerned zonal office in Madras. It contended that nature of casual job is such that there may not be job every day for the individual and the petitioner's case is not attracted by any provisions of I.D. Act.

It also contended that the reference is not maintainable as there is no termination at all. But only disengagement for want of casual work though he was engaged in the leave vacancy of regular employee that permanent employee is accountable for his work but not a casual employee. It contended Bharat Petroleum is different organisation and there is no interlink between the respondent and B.P.C. and if he has executed the work of B.P.C. it cannot be counted as work of the respondent. It also contended that petitioner is not definite for how many days he worked as he alleged in W.P. that he worked only for 230 days while in his petition he contended that he worked for 278 days in 1985 itself and thus he inflated the working days to suit his convenience. It also denied that service of the petitioner was orally terminated with a view to see that he will not complete 240 days in the year 1988-89. It also contended that as the petitioner has no case he did not prosecute the W.P. which was dismissed for default and for the purpose of getting job the petitioner made false

allegation and he is not entitled to any relief as provision of Sec. 25-F of I.D. Act not infringed in any manner and as the petitioner kept silent for 5 years as such the claim is stale.

The respondent thus prayed for rejecting the reference as it is devoid of merits and as the petitioner is not entitled for regularisation being casual clerk.

4. The petitioner filed rejoinder denying the counter averments that he worked in the leave vacancy, that it has to follow rules of recruitment and that he did not work for 240 days in any calendar year. He asserted that he worked for 278 days in the year 1985 excluding Sundays and he was forced to file Writ Petition due to untimely attitude of the respondent and the order of the High Court was given effect by the respondent only for a short period in the year 1990. He gave statement of number of days he worked in the rejoinder in the year 1985 in support of his contention he worked for 278 days in that year but not for 178 days as mentioned by the respondent and ESI returns of the respondent will support this contention. He also contended that recruitment rules have no application as he is seeking for reinstatement but not for recruitment. He further contended that by employing intermittently the respondent assured him of regular employment and for purpose of artificial breaks he was not engaged continuously which is an unfair labour practice or device adopted by the respondent. He thus reiterated that he is entitled to be reinstated for the reasons mentioned in the claim statement with back wages.

5. Upon the above contents the following point arises for consideration:

"Whether the termination of service of the petitioner Laxmanacharyulu, ex-casual clerk with effect from February 1990 by the respondent management is justified? If not to what relief the petitioner is entitled?"

6. The petitioner examined himself as W1 and Exs. W1 to W25 are marked on his behalf. On behalf of the respondent its Dy. General Manager was examined as MW1 and Ex. M1 to M15 are marked.

7. Point : The petitioner has deposed that he worked as casual clerk from 1984 to 1989 i.e. as billing clerk, that he used to prepare sales and despatch forms, cash sales collection advice statement, bank deposit slips, making entries in the ledger, attend to phone calls, that he was paid Rs. 30/- per day initially which was raised to Rs. 42/- per day and later to Rs. 55/- per day that he was neither issued appointment order nor termination order, that ESI Contribution deducted from his wages and he is also paid bonus, that Ex. W1 chart shows the number of days worked by him, that Ex. W2 is the ESI Card, Ex. W9 is the service certificate that he was issued, Ex. W3 is the cash voucher, Ex. W4 to W7 telegrams and Ex. W8 memo issued to him as and when the respondent required his service, that he did not work in leave vacancy, that he attended interviews for same posts as borne out by Ex. W10 to W14 and 17, that he is not engaged since February 1990, that he gave Ex. W15 and 18 representation for absorption, that he filed W.P. No. 6861/89 that Ex. W18, is copy of the petition and affidavit, that Ex. W19 is the counter filed by the respondent, that



Ex. W20 is copy of rejoinder, Ex. W21 is the order of the High Court in W.P.M.P. No. 9005/89, that Ex. W22 is joining report given by him as per Ex. W21 order, that Ex. W23 is the notification issued by the respondent for M08 grade post, that Ex. W24 is the copy of the application sent by him while Ex. W25 is the postal acknowledgement and he worked for Bharat Petroleum Company also.

8. M.W1 on the other hand deposed to the counter affidavit and recruitment policy. He filed Ex. M1 copy of the petition and affidavit in W. P. No. 6861/89. Ex. M2; xerox copy of the counter, Ex. M3; xerox copy of the rejoinder filed by the petitioner, Ex. W4 order of the High Court in W.P.M.P. No. 9005/89 (which are same as Ex. W18 to W21). He filed Ex. M5 statement showing number of days worked by the petitioner, Ex. M6 and 7 statement showing the bonus paid for years 1986-87 and 1987-88, Ex. M8 to M10 internal circulars regarding computation of gratuity, Ex. M11; xerox copy of register of employment, Ex. M12 ESI Contribution returns, Ex. M13 bunch of vouchers for payment of wages and Ex. M14 and 15 the xerox copies of ESI contribution returns for the years 1987-89. He has however no personal knowledge of the case as he is working in Sanathnagar department since 1986.

9. It is contended on behalf of the petitioner that he worked as casual clerk in the respondent company since 1984 to 1989 though no appointment order was issued, that his service was orally terminated in the year 1990 February, that he worked for more than 240 days in the year 1985, that he was paid wages under vouchers, that ESI Contribution, bonus paid during the period he was engaged, that the High Court also directed the respondent to continue him in service on the same terms and conditions, that he was not selected though he appeared for regular post on the ground that his representation is under consideration of the Head office and that he is entitled to be reinstated as his service was terminated without following the provisions of Sec. 25F of I.D. Act. It is however contended by the respondent that petitioner did not work for 240 days during the year 1984 to 1990 that he was engaged in leave vacancy depending upon the need, that payment of ESI Contribution and Bonus do not confer right for permanent post, that recruitment to regular post is governed by recruitment rules as the petitioner is a Government undertaking, that he was not terminated but disengaged as there is no casual work due to installation of computers, etc., for doing billing work, etc., and that as there is no violation of Sec. 25-F of the I.D. Act, the petitioner is not entitled for reinstatement.

10. There are certain admitted facts : The petitioner worked as casual clerk from October 1984 to 1989, attended to billing work etc., in the respondent company, that he was paid wages under vouchers Ex. W3 and M13. He was neither given appointment order nor termination order. He was issued Ex. W4 to W7 telegrams to report for duty and Ex. W8 memo for not reporting to duty, that respondent issued Ex. W23 notification for certain post, that the petitioner attended the interview as per Ex. W17 having applied to the post under Ex. W24, but not selected, that he

applied for interviews in other companies but unsuccessful as borne out by Ex. W10 to W14, that petitioner gave Ex. W15 and W16 representation for absorption, that he approached the Hon'ble High Court and given interim direction as borne out by Ex. M1 to M4 which are same as Ex. W18 to W21. The petitioner was paid bonus as borne out by Ex. M6 and M7, and ESI contribution are deducted from his wages as borne out by Ex. M12, M14 and M15. The petitioner was given interim direction for his continuation as casual clerk on the same condition as per Ex. W21 order of High Court. There can be no doubt that if a person worked continuously for a period of 240 days in a calendar year within the meaning of the Sec. 25-B of the I.D. Act, his service cannot be terminated without complying with the provisions of Sec. 25-F of the Act and in case of non-compliance the termination of service will be void ab initio and the employer is liable to reinstate the employee with back wages and termination of service for any reason amounts to retrenchment as per Sec. 2(oo) of I.D. Act. The case law on the point is well settled. It is suffice to refer to the decision reported in AIR 1986 SC page 458, Workmen of American Express International Banking Corporation vs. Management of American International Banking Corporation, casual and ad-hoc appointments can never be for period exceeding few days or month as per the decision in C. Murali and others vs. Management Hindustan Tools Limited, Hyderabad (1997 LLJ page 784). As per the decision reported in 1993 LLJ page 850 Genison Engineer MES vs. Central Industrial Tribunal and another. A person should work for a period of 240 days in a period of 12 months immediately preceding the date of termination of service. So the crucial question that falls for consideration i.e. crux of the case is whether the petitioner worked for 240 days in any calendar year prior to the date of alleged termination as it is beyond dispute that he was engaged only as casual clerk and not paid wages on par with regular employees, that he was issued ESI Card, paid bonus and ESI contribution deduction for the period he worked and he was not engaged by following recruitment procedure prescribed for regular employment.

11. In this case besides the oral evidence of parties we have documentary evidence in the shape of Ex. W1 chart filed by the petitioner showing number of days he worked, Ex. W9 service certificate issued by the employer of the respondent, Ex. M3 voucher on behalf of the petitioner besides the petition and affidavit filed by him in W.P. No. 6861/89 marked as Ex. W17. On behalf of the respondent, Ex. M5 statement of actual days worked by the petitioner, Ex. M13 bunch of vouchers, Ex. M6 and M7 bonus particulars, Ex. M12, 14 and 15, ESI Contribution returns and counter, Ex. W19 filed by the respondent in the above writ petition which was said to have been dismissed for default.

12. As per Ex. W1 statement filed by the petitioner and Ex. M5 statement of the respondent, the petitioner worked for following days in each year :

Year	As per the Claimant	As per the Respondent
1984	55 days	50 days
1985	278 days	176 days
1986	48 days	42 days
1987	52 days	Nil
1988	120 days	112 days
1989	150 days	51 days
1990	10 days	7 days

13. Thus it is obvious that petitioner did not work for 240 days in any of the year except in 1985 even as per Ex. W1 though there is discrepancy in regard to number of days he worked in each year between Ex. W1 and M5. It would appear that discrepancy appears to be due to adding overtime period as a working day as could be seen from the statement filed along with written arguments of the petitioner.

But as per Ex. W18 petition and affidavit filed in W.P. No. 6861/89 the petitioner worked only for 230 days in the year 1985 whereas according to Ex. W1 he worked for 278 days in that year. Further Ex. W1 statement was not filed along with the list of documents in the above writ petition. Thus there is discrepancy with regard to number of days the petitioner worked in the year 1985 in which he was said to have worked for more than 240 days in the year 1985 between Ex. W1 and W18. Similarly there is discrepancy with regard to number of days petitioner worked in the year 1985 between Ex. M5 statement filed by the management and Ex. M2 counter filed in the Writ Petition and Ex. M14, ESI returns. As per Ex. M5, the petitioner worked for 175 days while as per the para 4 of the counter he worked for 176 days in the year 1985. Similarly as per Ex. M5, the petitioner worked for 112 days in 1988, but as per the counter as worked for Nil days, in the year 1988, whereas according to Ex. M5 and vouchers, the petitioner worked for 112 days in the year 1988. Similarly as per Ex. M14 xerox copy of the ESI return for the period from 1-10-87 to 31-3-88 he worked for 43 days and as per Ex. M15 xerox copy of returns for the period from 1-10-88 to 31-3-89 he worked for 99 days. As per the payment vouchers the petitioner worked for 136 days in 1989 and 140 days in 1990. Thus there is discrepancy in the documents filed by the respondent. It did not file contribution returns for the year 1985 and returns for the year 1988 i.e., from 1-4-88 to 30-4-88 and bonus statement not filed for 1985-86 though filed for the year 1986-87 and 1987-88 as borne out by Ex. M6 and M7. Further as per averment in Ex. M1 with petition filed by him the service of petitioner orally terminated from 11-5-1989 while as per the claim statement and evidence he was terminated from service from February, 1990.

14. Thus with regard to crucial year 1985 in which petitioner claims to have worked for 240 days

which is disputed by the respondent as it is the common case of both parties that he did not work for 240 days in other years i.e., 1984, 1986 to 1990 there is no clinching evidence I am of the view that is for the petitioner to prove by satisfactory evidence that he worked for the required number of days in the year 1985. The evidence placed on record by him is discrepant on this point. Ex. W9 certificate dt. 4-4-89 would only show that the petitioner worked satisfactorily in the capacity of casual clerk intermittently towards the staff on leave. It is silent as to for how many days he worked in each year as such not useful to the petitioner. I am of the view that petitioner is not entitled to count over time work said to have been done as extra working days as he was paid excess amount for the over time, as no authority is placed on record by the petitioner to show he can count them as extra working days, I am also of the view that he is not entitled to add Sundays and public holidays for the actually period worked to reckon continuous service in the absence of any contract to that effect and the decision relied on by the petitioner in American Express Case will not come to this rescue. As per Sec. 25-B of the I.D. Act if a person worked for 240 days in a calendar year prior to the date of termination it will amount to continuous service. I am of the view that petitioner is not entitled to add the period in which he did not work treating them as artificial breaks. In some of the year as per the statement of petitioner in Ex. W1 he was not engaged for months together. I therefore hold that neither side has placed clinching evidence as to for how many days the petitioner worked in the year 1985. I have no doubt that petitioner on whom initial burden rest failed to discharge the same.

15. I am unable to accept the contention of the petitioner that in the year 1986-87 the management engaged Mr. Manoj Anand, C.S.P. Krishna and Gnaneshwar Kumar to avoid continuity of service of the petitioner and they were not engaged in the year 1988 when petitioner was engaged basing on Ex. M7 and M8 bonus statements. I am also of the view that simply because the respondent did not file ESI returns and bonus statement of some years and wages register for the month of October to December 1995 no adverse inference can be drawn against the respondent management, similarly merely because the respondent did not file record to show in the leave vacancy of which permanent employee the petitioner was engaged it cannot be said that the petitioner was engaged in a permanent vacancy. Similarly merely because telegram and memo was issued to the petitioner by the management it cannot be deemed that he is not casual employee when it is the case of the petitioner himself that he was taken as casual clerk intermittently as the respondent given satisfactory evidence for engaging him from time to time by issuing Ex. M4 to M7. The evidence on record on careful analysis would show that the petitioner was engaged to complete the billing work and to clear the back-logs of temporary nature as and required and disengaged as the above work is not in arrears due to computerisation etc. It is also in the evidence of MW1 that there is no cadre like billing clerk. Though WW1 claimed that there is regular post of Billing Clerk and it is unfilled he did not file any record in proof of

the said fact. Similarly merely because the petitioner worked in B.P.C. which is said to be the sister concern of the respondent and even if those days are also added it would not go to show that petitioner worked for 240 days in any calendar year.

16. Further according to the Sec. 25-B of the I.D. Act, period of 240 days has to be reckoned backwards for 12 months from the date of termination. In this case the petitioner service said to have been terminated in February 1989 though he was engaged from August 1989 to July 1990 as per the direction of the High Court in Ex. W21. He did not admittedly work of 240 days in 12 months preceding the date of termination in February 1989 as was held in 1993 LLJ page 850. From the evidence it would appear depending upon the need and exigency of service and to complete the billing work etc., the petitioner was engaged intermittently and disengaged after completion of work which is accumulated and temporary in nature due to absence of regular staff. I am of the view that payment of bonus and deduction of ESI contribution as per the statute will not confer any right to claim regular appointment in the absence of appointment following regular recruitment rules. It is in the evidence that in case of casual employees the said procedure is not followed and available persons will be taken on daily wage basis and the same person will be engaged whenever needed because of their previous experience.

17. The learned counsel for the petitioner however contended that there cannot be casual employee or adhoc appointments for months and years together and such designation are given only to avoid provision of I.D. Act. Reliance placed on a decision of our High Court dt. 6-2-97 in W.P. No. 761/93 (reported in 1997 LLJ page 784). The facts of the said case would show that the employees in canteen have been engaged as casual labour for 1-1/2 decades continuously without break and they have not been paid salaries and other benefits on par with regular employees though they have completed 240 days of continuous service. I feel that the facts of the above case are distinguishable though there can be no casual employment for years together. In this case on hand there is no proof that petitioner worked for 240 days, in any calendar year including in the year 1985 much less for 12 months preceding the date of disengagement in 1989.

18. Further as per the decision of Supreme Court dt. 19-8-92 in Civil Appeal No. 3448/84-92 (Madhyamik Siksha Parishad U.P. vs. Anil Kumar and others) even if a person works for more than 240 days in an year on casual or adhoc basis, he has no right for regularisation if there is no sanctioned post in existence to which he could have been appointed and in such cases it is difficult to accord them status of workmen. In the instant case also as per the evidence on record as pointed out above there is no post of billing clerk. But casual clerks are appointed to complete the billing work and to clear the backlog. As the facts of the case clearly shows that it is a case of engagement and disengagement depending upon the need and as the work is not of perennial nature and as the billing work, other work is entrusted to computer machines and as the existing staff itself is

transferred to other places wherever they are found in excess since 1989, the non-engagement of the petitioner. Since May 1989 it cannot be said to be termination of service as was held in 1997(4) S.C.C. 391 C. Himanshu Kumar Vidyarthi vs. State of Bihar and others. In the absence of termination it will not amount to retrenchment but only discharge simpliciter and hence the question of non compliance of Sec. 25-F of the I.D. Act does not arise. Consequently he cannot seek for regularisation. At best his case can be considered for employment as casual clerk whenever vacancy arises in future.

19. It has come out in the evidence that as per the recruitment rules some vacancies have been advertised, that the petitioner has attended for interview but he was unsuccessful and as he could not get job elsewhere inspite of attending to number of interviews as borne out by Ex. W10 to 14 and W17. It is thus obvious from the material placed on record that the petitioner is seeking for reinstatement on the ground of alleged termination though he was not terminated from service but disengaged for want of work, as he failed to get him but selected for regular post as rightly contended by the learned counsel of the respondent. It is true he gave representation in 1987 and 1989 i.e. Ex. W15 and W16 for regularisation. But I am of the view he cannot claim regular appointment contrary to recruitment rules and as he was not selected in the interview.

20. I am also of the view that the claim of the petitioner for reinstatement or absorption with back wages has also become stale. The petitioner was engaged from May 1989. HeH filed W.P. No. 6861/89 and as per Ex. M4 interim direction, he was engaged from August 1989 to July, 1990 as per the written argument. It is the common case that W.P. was later dismissed for default in 1990 itself as per the claim statement. The petitioner did send any representation to the respondent thereafter for continuation in service though he gave Ex. W16 representation dt. 3-6-89 i.e. after alleged termination in May 1989. No material is placed on record to show that he approached Conciliator thereafter or the conciliation officer sent failure report. This dispute was referred in the year 1997. No satisfactory explanation given for such an abnormal delay except showing financial difficulties. Nothing prevented the petitioner from sending atleast representation to the respondent to consider his case during the year 1990—1997. Hence his claim for reinstatement even if it is assumed to be a case of retrenchment by way of termination of service after working for 240 days in a calendar year cannot be sustained after such a long time and it will amount to improper exercise of discretion. This view of mine is fortified by a decision reported in 1992(II) S.C.C. 598 Dehni Robson Light Railway Company vs. District Board, Bhojapur.

21. In view of the foregoing discussion and for all the above reasons I conclude that the petitioner who worked as casual clerk in the respondent establishment till May, 1989 is not entitled to any of the reliefs prayed for. The point is answered accordingly against the petitioner.

22. In the result, an award is passed holding that the action of the respondent in terminating (disengaging) the service of the petitioner from May 1989/February 1990 as the case may be is justified and he

is not entitled to any of reliefs under this reference. The reference is answered accordingly. Parties to bear their own cost in the circumstances of the case.

Written by me and given under my hand and the seal of this Tribunal, this the 17th day of September, 1998.

C. V. RAGHAVAN, Industrial Tribunal-I  
Appendix of Evidence

Witnesses Examined

for the Petitioner :

WW1 C. Laxmanacharyulu

Documents marked for the Petitioner:

Ex. W1 Chart showing the working days particulars.

Ex. W2 ESI Card issued to WW1.

Ex. W3 Receipt for cash disbursed (xerox copy)

Ex. W4 to W7 Telegrams issued to the W.W.1 by the management.

Ex. W8 Memo issued to WW1.

Ex. W9 Service Certificate dt. 4-4-89 issued to WW1 by the Depot Manager, H.P.C.L.,

Ex. W10 Letter dt. 22-9-88 from Venket Chemicals (P) Limited, issued to the WW1 to attend interview.

Ex. W11 Interview letter from Air Force Academy, Hyderabad issued to WW1 dt. 23-3-89.

Ex. W12 Interview letter dt. 2-1-88 from M/s. Magna Hardtemp Limited issued to WW1.

Ex. W13 Interview letter dt. 11-6-88 from M/s. Samkrig Pistons Limited, Hyderabad.

Ex. W14 Interview letter dt. 10-4-89 from M/s. Allied Sales Corporation issued to WW1.

Ex. W15 Representation dt. 19-2-87 given by WW1 to the respondent for regularisation of his services.

Ex. W16 Representation dt. 3-5-89 given by WW1 to the respondent for regularisation of his services.

Ex. W17 Letter calling for interview to WW1, Encl: xerox copy of Deccan Chronicle.

Ex. W18 Copy of the affidavit to W.P. No. 6861/89 filed by WW1.

Ex. W19 Copy of the counterfiled by the management in W.P. No. 6861/89.

Ex. W20 Reply of the petitioner to the counter affidavit to W.P. No. 6861/89.

Ex. W21 Order copy of W.P. M.P. No. 9005/89 in W.P. No. 6861/89 dt. 29-6-89.

Ex. W22 Letter of WW1 reporting for the duty in view of Hon'ble High Court order.

Ex. W23 Notification for filling up posts of clerical grade MO8.

Ex. W24 Application given by WW1.

Ex. W25 Postal acknowledgement to Ex. W24. Document marked for the respondent.

Witnesses Examined

For the Respondent:

M.W. 1 Jowthi

Ex. M1 Affidavit and petition filed by the petitioner to W.P. No. 6861/89 (xerox copy).

Ex. M2 Xerox copy of counter affidavit filed by R 1 to R 3 in W.P. No. 6861/89.

Ex. M3 Xerox copy of reply of the petitioner to the counter affidavit.

Ex. M4 Order of the Hon'ble High Court in W.P.M.P. No. 6005/89 and W.P. No. 6861/89.

Ex. M5 Statement showing the working days particulars of the workman.

Ex. M6 Statement showing payment of Bonus for 1986-87.

Ex. M7 Statement showing payment of bonus for 1987-88.

Ex. M8 Internal circular dt. 13-3-87 regarding computation of exgratia for 1986-87.

Ex. M9 Internal circular regarding computation of exgratia for 1984-85.

Ex. M10 & M11 Xerox copy of register of employees (extract).

Ex. M12 ESI contribution form submitted by the respondent corporation.

Ex. M13 Bunch of vouchers containing 59 in number.

Ex. M14 Xerox copy of the ESI return for the period 1-10-87 to 31-3-88.

Ex. M15 Xerox copy of the ESI returns for the period from 1-10-88 to 31-3-89.

नई दिल्ली, 3 दिसम्बर, 1998

का. प्र. 2715.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 की अनुसरण में, केन्द्रीय सरकार भारत ओल्ड माईन्स लि. के प्रबंधन के अन्तर्गत नियोजकों और उनके कर्मचारों के बीच, अनुवन्ध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रधिकरण, बंगलूर के संघटकों को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-12-98 को प्राप्त हुआ था।

[सं. एल.-43011/11/90-आई.आर. (विविध)]

बी. एम. डेविड, डी.एस. प्रधिकारी

New Delhi, the 3rd December, 1998

S.O. 2715.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the industrial dispute between the employers in relation to the management of Bharath Gold Mines Ltd., and their workman, which was received by the Central Government on the 3-12-1998.

[No. L-43011/11/90-IR (Misc.)]

B. M. DAVID, Desk Officer

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT, BANGALORE  
Dated 13th November, 1998

## PRESENT :

Justice R. Ramakrishna, Presiding Officer.  
C.R. No. 17/91

## I Party

The President,  
Bharath Gold Miners' Assn.,  
No. 545, Near Punjabi Line,  
Oorgaum Post,  
K.G.F.-563120.

## II Party

The Managing Director,  
Bharath Gold Mines Ltd.,  
Oorgaum,  
K.G.F.-563120.

## AWARD

The Government of India has referred the existing Industrial dispute between the above mentioned parties vide their Order No. L-43011/11/90-IR (Misc.).

## SCHEDULE

"Whether the action taken by the management of M/s. Bharath Gold Mines Ltd., Kolar Gold Fields in dismissing S/Shri 1. Sampangi, T. No. 3511, 2. Yesu, T. No. 1453, 3. Subramani, T. No. 1439, from service for their alleged attempt to commit theft of GBQ (Gold bearing quartz) is justified. If not to what relief the workmen are entitled to?"

The I Party Union represented by its President espoused this dispute on behalf of the 3 workmen shown in the schedule to the order of reference.

These workmen were dismissed from the service on the allegation of having committed gold theft in the mines owned by the II Party. On 16-5-88 the above workmen found indulged in pounding GBQ pieces with the sledged hammer with a view to carrying the same which is the property of the company. Thereafter, necessary show cause notices were issued to them alleging that each one of them are indulged in theft of employer's property at new Golkonda shaft by crushing and pounding GBQ pieces and they have been caught by the special crime squad and therefore they have committed misconduct and breach of standing orders Clause 15B(34).

The II party after issue of show cause notice kept all the 3 workmen under suspension. Since their reply to the show cause notice having found un-

satisfactory an enquiry was held resulting in the finding that the charges of theft proved against the workmen. The disciplinary Authority having concurred with the findings and having come to the conclusion that the act of theft is a very serious misconduct ordered for dismissal of these workmen.

After reference, the concerned workmen jointly filed a claim statement denying the charges made against them and further contending that the domestic enquiry was not conducted in accordance with Law and Principles of natural justice. They have also contended that the punishment of dismissal is disproportionate to the charges alleged against them which affect their livelihood and other serious civil consequences and therefore Section 11A of the Industrial Disputes Act 1947 shall require to be invoked to reduce the punishment of dismissal and order for reinstatement and other statutory benefits.

The II Party, after giving a brief history of the act committed by these 3 workmen has justified the order of dismissal made against them. The II Party also contended that they have conducted domestic enquiry in accordance with the Principles of natural justice and there is no perversity in the Order of enquiry Officer. Therefore, their contention is that the act of theft will jeopardise the morale of the company. There shall not be any interference on the question of punishment.

Initially, this Tribunal framed preliminary issue in respect of the validity of domestic enquiry. After full enquiry, a detailed Order was made on 4-8-97 holding that the domestic enquiry was conducted in accordance with Law. In the said Order the perversity of the findings is also dealt by this Tribunal. In view of the fact that the domestic enquiry was fair and proper and the order of Enquiry Officer does not suffer from perversity, the only question that require to be considered at this stage of the case is

"Whether any interference in the Order of dismissal is justified in the facts and circumstances of this case" ?

Industrial Law provide that in the case of (a) perverse findings (b) victimisation (c) unfair labour practice (d) punishment disproportionate to the gravity of the misconduct requires interference from the adjudicating authorities and Section 11A gives unfettered discretionary powers to the adjudicating authorities to interfere in the extreme order of dismissal to the benefit of the workman.

The Case Laws on this point varies from case to case depending upon the facts and circumstances of each case. While exercising this discretion the adjudicating Authorities shall ask a question for themselves whether the interference in the Order of dismissal exercising the discretionary powers vested under 11A, the consequences that will follow to the establishment.

The misconduct varies from various degrees and the minor mis-conduct require to be viewed sympathetically taking into consideration the antecedents of the workman involved. The act of theft is a very grave misconduct, it requires a deterrent action and therefore exercising the discretionary power will tend to lead disruption of the very establishment. Therefore, exercising power under Section 11A of the Act has not warranted in cases of serious mis-conduct such as theft.

Since the materials in favour of the workmen are insufficient to interfere with the Order and also there being material placed that the management are not indulged in committing victimisation, unfair labour practice, the interference is not warranted.

In the facts and circumstances discussed above, the following Order is inevitable.

### ORDER

This reference fails and the same is rejected. (Dictated to Steno, typed by her and corrected by me).

JUSTICE R. RAMAKRISHNA, Presiding Officer  
नई दिल्ली, 3 दिसम्बर, 1998

का.आ. 2716:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत गोल्ड माईन्स के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलौर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-12-98 को प्राप्त हुआ था।

[मं. एल.-43012/9/95-आई. आर. (विविध)]  
बी.एम. डेविड, डेस्क अधिकारी

New Delhi, the 3rd December, 1998

S.O. 2716.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bharat Gold Mines Ltd., and their workman, which was received by the Central Government on the 3-12-98

[No. L-43012/9/95-IR(Misc.)]  
B.M. DAVID, Desk Officer  
ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT, BANGALORE.

Dated, the 19th November, 1998

PRESENT :

Justice R. Ramakrishna, Presiding Officer.  
C.R. No. 56/1997.

### I PARTY :

The Secretary,  
Bharat Gold Mines Employees  
Union, CITU Office,  
Marikuppam,  
K. G. F.

### II PARTY :

The Managing Director,  
Bharat Gold Mines Ltd.,  
Suvarana Bhavan,  
K. G. F. 563120.

### AWARD

The Central Government vide Order No. L-43012/9/95-IR (Misc.) dated 12-7-1995 referred the dispute existing between the above parties by exercising the powers conferred under Sec. 10 of the Industrial Disputes Act, 1947 for adjudication.

### SCHEDULE

"Whether the management of Bharat Gold Mines Ltd., is justified in terminating the service of Shri N. Gopal P.E. No. 182551 w.e.f. 1-6-93 on the basis of the enquiry report dated 11-5-93 ? If not, to what relief the workman is entitled to an from which date ?"

After reference the same is registered in C.R. No. 56/97. A ordinary notices to both the parties does not created any seriousness to the parties. The notices by R.P.A.D. has not improved the situation. But both the parties have acknowledged the notice. The second party is now represented by their advocate Shri A.S. Bopanna. The first party is remained absent even after receiving second notice by RPAD. This conduct of the first party shows that he is not interested in the dispute.

In the result the reference is rejected.

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 3 दिसम्बर, 1998

का.आ. 2717:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत गोल्ड माईन्स लि. के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलौर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-12-98 को प्राप्त हुआ था।

[मं. एल.—43012/12/94—आई.आर. (विविध)]  
बी.एम. डेविड, डेस्क अधिकारी

New Delhi, the 3rd December, 1998

S.O. 2717.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award

of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bharat Gold Mines Ltd., and their workman, which was received by the Central Government on the 3-12-98.

[No. L-43012/12/94-IR (Misc.)]

B.M. DAVID, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE.

Dated the October, 1998

#### PRESENT :

Justice R. Ramakrishna, Presiding Officer.  
C.R. No. 25/97

#### I PARTY :

The Sr. Vice President,  
B.G.M.L. Labour Association,  
No 42, N. T. Block, Oorgaum PO  
K.G.F. 563120.

#### II PARTY :

The Mg. Director,  
Suvarna Bhavan  
Bharat Gold Mines Ltd.,  
K.G.F. 563120.

#### AWARD

The Government of India by reference No. L-43012/12/94-IR (Misc.) dated 2-3-95 referred the following dispute for adjudication.

"Whether the Management of Bharat Gold Mines Limited is justified in dismissing Shri Jesiram, PE No. 174855, S.D. Watchman from services w.e.f. 15th January, 1994 ? If not, what relief he is entitled to and from which date ?"

This dispute was espoused by the Sr. Vice President Bharat Gold Mines Association Kolar Gold Fields for the first party. Hence notice was sent to the Association for the first party.

A communication has been received by this tribunal on 26-11-97 sent by the Sr. Vice President, Bharat Gold Mines Association, stating that the first party workman was not available at Kolar Gold fields. Again a fresh notice was sent to the Sr. Vice President of the Association. The Sr. Vice President who received the notice, had again reiterated the stand taken by him earlier.

This Tribunal sent again one more notice, directing the Sr. Vice President to appear before the Tribunal. The notice has been served on the Sr. Vice President of the Association but he has failed to appear inobedience to the notice.

The first party workman being represented by the Association, no separate address of the first party is available.

In these circumstances, the reference cannot be adjudicated on merits.

In the circumstances, referred to above, the following orders made.

This reference is rejected.

JUSTICE R. RAMAKRISHNA Presiding Officer

नई दिल्ली, 3 दिसम्बर, 1998

का. आ. 2718 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कलकत्ता डॉक लेबर बोर्ड के प्रबन्धसूचक के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-12-98 को प्राप्त हुआ था।

[सं. एन.—32012/3/96—आर्टि. आर. (द्विविध)]  
बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 3rd December, 1998

S.O. 2718.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Calcutta Dock Labour Board and their workman, which was received by the Central Government on the 3-12-1998.

[No. L-32012/3/96-IR (Misc.)]

B. M. DAVID, Desk Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 24 of 1996

#### PARTIES :

Employers in relation to the management of Calcutta Dock Labour Board, Calcutta:

#### AND

Their workmen.

#### PRESENT :

Mr. Justice A. K. Chakravarty,  
Presiding Officer.

#### APPEARANCES :

On behalf of Management : Mr. B. K. Chakravarty, Industrial Relations Officer.

On behalf of Workmen : Mr. A. Banerjee, General Secretary of the union.

STATE : West Bengal INDUSTRY : Port & Dock



## AWARD

By Order No. L-32012/3/96-IR(Misc.) dated 14-6-1996 the Central Government in exercise of its powers under section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Calcutta Dock Labour Board, Calcutta in refusing to correct the age recorded in the service sheet of Shri Sushil Kumar Bhattacharjee now UDC on the basis of School Leaving Certificate submitted by him is lawful and justified ? If not, to what relief the concerned workman is entitled ?"

2. This reference has arisen at the instance of Calcutta Port and Dock Industrial Workmen Union (union in short) for the refusal by the Calcutta Dock Labour Board (in short the management) to rectify the recorded age of the concerned workman Sushil Kumar Bhattacharjee.

3. Union's case, in short, is that the concerned workman joined the service of the management as a Peon on 1-7-1958. At the time of his entry into the service he filled up declaration form giving all particulars of his age and date of birth. A school leaving certificate was also produced at that time. In the declaration his date of birth was shown as 8th August, 1939 and age as 18 years 10 months and 23 days on 1-7-1958. The management, however, recorded his date of birth as 13-6-1938 in the office record. The workman raised objection against such incorrect recording of his date of birth during his service period. No action, however, was taken by the management in the matter. The concerned workman thereafter raised an industrial dispute through his union which culminated in the present reference. The union has accordingly prayed for cancellation of the order of his retirement and for allowing the workman to work till 8th August, 1997.

4. The management filed its written statement alleging inter-alia that the workman is not entitled to seek correction of his recorded date of birth in the service record after lapse of 26 years and that the school leaving certificate upon which the workman's claim is based has no evidentiary value and also that the dispute having been raised at the fag and of his career, his claim should be rejected. The management has further alleged that under Rule 7 of the SSR-1 of the Calcutta Dock Labour Board if no documentary evidence is produced by the workman at the time of appointment in support of his age, his case should be referred to the Medical Officer of the management for assessment of his age. The concerned workman even though mentioned his date of birth as 8th August 1939 in his declaration, did not produce any documentary evidence in support of such declaration. Concerned workman was

accordingly sent to the medical officer for determination of his age and the said medical officer accordingly upon examining him found him to be about 20 years of age on 13-6-1958. The age of the concerned workman was accordingly officially recorded as 13-6-1938. The concerned workman filed an application for rectification of his age on 29th October 1984 with a copy of his school certificate. That application was rejected. The management accordingly states that the age of the concerned workman having been correctly recorded, no question of rectification of the same had arisen at any point of time. The management accordingly prayed for rejection of the claim of the union.

5. The union in its rejoinder denied the allegations of the management. It is alleged that the concerned workman produced the school certificate alongwith the declaration and that there was no occasion for the medical officer to record his age because the concerned workman was not directed to appear before him for the said purpose. The union has also alleged that objections against the wrong entry in the service book was taken as far back as 1984 and the dispute has arisen as the management did not pay any heed to the objection of the concerned workman. Rest of the allegations are merely repetition of the case of the union in its written statement.

6. Both sides produced number of documents. Both sides also examined one witness each in support of their respective cases.

7. Heard representatives of both the parties.

8. The only point for consideration in this case being whether the date of birth of the concerned workman was correctly recorded in his service book, it is necessary to consider the question whether the concerned workman is competent to raise the dispute about two years before the date of his retirement as per his officially recorded age. It will not be correct to say that at no point of time before the present dispute is raised the workman did not raise any dispute. The workman in his evidence stated that he raised objection against official recording by filing an application dated 29-10-1984 which was marked Ext. W-2 in this case. On 13-3-1985 the management informed him that his prayer for rectification of his age could not be accepted at that stage without showing any reason for the same. The concerned workman again applied for rectification in 1993. It is therefore clear that the concerned workman did not raise the question for the first time two years before his date of retirement. That being so, the dispute cannot be said to have been raised at the fag and of his service period.

9. Coming to the merits of the case, I find that the management is relying solely on the Service Rules, marked Ext. M-2 in this case. In respect of recording of age it is stated in Rule-7 that "At the time of appointment an employee shall declare his



age and produce supporting documentary evidence such as Matriculation (or equivalent) certificate, or Baptismal or Birth certificate showing therein the name of the employee concerned. In case of a Class-IV employee the certificate of age given by the Head Master of the recognised High School in which he last read may be accepted by the Competent Authority. If no such document can be produced by the employee or if the Competent Authority is not satisfied with the evidence produced, the employee may be sent by the said authority to the Medical Officer of the Board for the assessment of age. The age certified by the Medical Officer shall be accepted as the correct age of the employee.

Note : 1. "If the Medical Officer is only able to state the approximate age of the employee, his date of birth shall be assumed to be the corresponding date after deducting the number of years representing his age from his date of appointment."

10. The management has produced the declaration submitted by the workman in 1958, marked Ext. M-1 in this case. It will appear from this declaration form that as far back as on 16-7-1958 the workman declared his exact date of birth as 8th August, 1939 and age as per school certificate was 18 years 10 months and 23 days as on 1-7-1958. The workman also disclosed the name of the school. It is true that the school leaving certificate is not attached to this declaration form to show that it was produced at that time. It is also at the same time true that if anything is removed from this declaration form that is not to remain attached to the said form. At any rate, there is no mention in this declaration that the supporting documentary evidence was not produced under Rule-7 of the Service Rules. Further, there is nothing in the rules which makes it obligatory on the part of an employee to produce supporting documentary evidence along with declaration of his age. There is no bar for the employee to do the same at any time before his appointment. The workman having mentioned the details of the school where he read, management could have directed him to produce such certificate. I also find no reason why the employee being in possession of the certificate which was issued on 12-12-1955 vide Ext. W-1, would not produce the same before the management. It is true that the management was at liberty to believe or disbelieve such documents, but if that is disbelieved the management was to show its reason. Since I am of the opinion that the documentary evidence regarding age was produced by the workman at the time of his entry into the service, reference of his case to the medical officer for examination of his age was not justified as there is nothing on record to show that the management disbelieved the certificate.

11. Management's story that the school leaving certificate was not produced at the time of entry into the service by the concerned workman was a blatant lie shall at once be established if the service record of the concerned workman as produced by the management (Ext. M-11) is considered. It will appear that the date of birth of the workman was clearly written there initially as 8-8-1939. Unless the management had sufficient materials an record to come to the conclusion that the date of birth of the concerned workman is 8-8-1939 that date would not have been entered in the service record. Subsequent striking down of that portion by substituting it as "13-6-1938 as per M.C." accordingly should not have been made.

12. The sheet anchor of the case of the management is the medical certificate date 13-6-1958 alleged to have been issued by the Medical Officer vide Ext. M-4. It will appear from this certificate that the concerned workman was sent to the Medical Officer not for verification of his age but for his medical examination. As a matter of fact, on a perusal of this certificate it will appear that he was medically examined and this certificate was given about his medical fitness and his capability of carrying the duty as a Peon. There is also mention in this certificate that he is "Aged about 20 years". Nothing will appear from this certificate whether the medical officer came to his conclusion after conducting the necessary tests for verification of age. This certificate, there cannot be said to be the determination of the age of an employee. Further, it appears that the medical officer is not sure about the actual age and he merely stated that he was about 20 years of age. Since there is scope of variation in such approximate fixation of age, Rule-7 of the Service Rules has stated that the age as staged in the certificate shall be taken as final. It is not for this Tribunal to question the matter of policy, but since there is hardly any difference in medical opinion that there may be variation of 2 years on either side in respect of age fixed by way of ossification test that the policy of relying on the medical officer's certificate becomes questionable.

13. Be that as it may, the management having failed to prove that no documentary evidence was produced at the time of appointment of the concerned workman, reference of his case to the medical officer for assessment of his age was not justified. The medical certificate also leaves room for doubt as to whether the concerned workman was sent there for assessment of his age at all. Further, the certificate having not shown that the assessment of his age was made on the basis of necessary tests for the purpose that the age recorded there cannot be accepted.

14. Mr. Chakraborty, representative of the management also submitted that the school leaving certificate, Ext. W-1, is bereft of any evidentiary

value. This certificate appears to have been issued under the signature of the Head Master of K. K. Hindu Academy, Motijhil, Dum Dum, Calcutta-28. There is no evidence on record as to why the Head Master issued a false certificate in favour of his student in as far back as 1955. Further, the strict rule of evidence and the nicety of procedural formalities have no place in the industrial legislation. That being so, I find nothing to disbelieve this document and accordingly it has been clearly established by the workman that his date of birth is 8th August, 1939.

15. So, upon careful consideration of the facts and circumstances alongwith the position of law in this case, I am to hold on the basis of the school leaving certificate that the management was not justified in refusing to rectify the date of birth of the concerned workman which should have been 8-8-1939 and not 13-6-1938 as was officially recorded. The workman accordingly having been made to retire illegally from service prematurely, he shall be deemed to be in service of the management till the date of his actual retirement i.e. 7-8-1997 and he shall be entitled to all his dues in pay, allowances and retirement benefits on his deeming service for this extended period.

This is my Award.

A. K. CHAKRAVARTY, Presiding Officer

Dated : Calcutta, the 12th November, 1998.

नई दिल्ली, 3 दिसम्बर, 1998

का. आ. 2719.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार शुक बोन्ड लिफ्टन इंडिया लि. के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में लेबर कोर्ट अरनाकुलम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-12-98 को प्राप्त हुआ था।

[सं. एल.-35011/1/98-आई आर (विविध)]  
बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 3rd December, 1998

S.O. 2719.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Labour Court, Ernakulam as shown in the Annexure, in the industrial dispute between the employers in the relation to the management of M/s. Brook Bond Lipton India Ltd., and their workman, which was received by the Central Government on the 3-12-98.

[No. L-35011/1/98-IR(Misc.)]  
B.M. DAVID, Desk Officer

## ANNEXURE

IN THE LABOUR COURT, ERNAKULAM

(Monday, the 26th day of October, 1998)

PRESENT :

Shri D. Mohanarajan, B.Sc., LL.B.,  
Presiding Officer.

Industrial Dispute No. 45 of 1998(C)

BETWEEN :

M/s. Brooke Bond Lipton India Ltd., Bristow  
Road, Willingdon Island, Cochin-682003

AND

The General Secretary, Cochin Port Trust  
Thozhilai Union, Opposite Ammonia  
Tank, 24/1652, Cochin.

AWARD

The Government of India as per order No. L-35011/1/98-IR(M) dated 27-7-1998 referred the following industrial dispute to this court for adjudication :

“Whether the demand of Cochin Port Trust Thozhilai Union claiming Rs. 20,000/- per head as per the Voluntary Retirement Scheme for the 16 workers who had taken voluntary retirement w. e. f. 9-10-1995 is justified ? If not, to what relief the workmen are entitled to ?”

2. When the case stood posted for appearance of the parties on 26-10-1998, the management filed a memo stating that the dispute was amicably settled between the parties on 18-5-1998 in the presence of the Conciliation Officer and the Regional Labour Commissioner (Central) and that any further matter remains to be adjudicated upon. A copy of the memorandum of settlement has also been produced along with the memo.

3. Though notice was duly served on the union, they did not turn up and proceed with the dispute. It can be rightly inferred that since the matter was amicably settled between the parties by virtue of memorandum of settlement dated 26-10-1998, the union is not at all interested to pursue the matter any further and that no industrial dispute is pending to be adjudicated upon.

In the result, the reference is answered holding that there is no subsisting industrial dispute between the parties to be adjudicated upon.

Dictated to the Confidential Assistant, transcribed and typed out by her corrected by me and pronounced in Open Court on this 26th day of October, 1998.

D. MOHANARAJAN, Presiding Officer

नई दिल्ली, 3 दिसम्बर, 1998

का.आ. 2720.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पन्हाईया माईका माईन ऑफ बिहार स्टेट मिनरल्स डेवलपमेंट कारपोरेशन लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-12-98 को प्राप्त हुआ था।

[सं. एल-28012/2/87-डी III (बी)]

बी. एम. डेविड डेस्क अधिकारी

New Delhi, the 3rd December, 1998

S.O. 2720.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Panhaiya Mica Mine of Bihar State Minerals Development Corporation Ltd., and their workman, which was received by the Central Government on 3-12-1998.

[No. L-28012/2/87-D-III(B)]

B.M. DAVID, Desk Officer

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. B. Chatterjee, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1) (d) and sub-section (2A) of the I.D. Act 1947

REFERENCE NO. 245 OF 1987

PARTIES :

Employers in relation to the management of Panhaiya Mica Mine of Bihar State Mineral Development Corporation Ltd., P.O. Kodarma, Dist. Hazaribagh and their workmen.

APPEARANCES :

On behalf of the employers : Shri D. K. Verma, Advocate.

On behalf of the workmen : None.

STATE : Bihar.

Industry : Mica.

Dated. Dhanbad. the 3rd November, 1998

## AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) and sub-section (2A) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-28012/2/87-D.III(B), dated, the 21st August, 1987.

## SCHEDULE

"Whether the action of the management of Panhaiya Mica Mine of Bihar State Mineral Development Corporation Ltd., P.O. Kodarma, Distt. Hazaribagh in removing Shri Sheo Nandan Singh, Mining Mate from service is legal and justified? If not, to what relief is the concerned workman entitled?"

2. Soon after the receipt of the order of reference notices were duly served upon the parties. But only the management represented through their Learned Advocate Shri D. K. Verma while the workmen abstained from representing before this Tribunal. Thereafter several adjournments were granted to the workmen and again notices were issued to them. But inspite of the service of notice to the workmen they neither appeared nor took any steps. It therefore leads me to an inference that the workmen or the union are not interested to proceed further in this reference. In the circumstances, I have no other alternative but to pass a 'No dispute' Award in this reference.

B. B. CHATTERJEE, Presiding Officer.

नई दिल्ली, 3 दिसम्बर, 1998

का.आ. 2721.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ए. ए. सी. लि. में सीतारामपुरम लाईम स्टोन माईन्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-12-98 को प्राप्त हुआ था।

[सं. एल-29011/9/97 आई.आर. (विविध)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 3rd December, 1998

S.O. 2721.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of A.C.C. Ltd. M/s. Seetharampuram Lime Stone Mines and their workman, which was received by the Central Government on 3-12-1998.

[No. L-29011/9/97-IR(Misc.)]

B. M. DAVID, Desk Officer

## ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

PRESENT :

Sri C. V. Raghavaiah, B.Sc., B.L., Industrial Tribunal-I.  
Dated : Monday the 28th day of September, 1998

INDUSTRIAL DISPUTE NO. 34 OF 1997

BETWEEN

The President, M/s. Seetharampuram Mines  
Workers Union, Seetharampuram Mines,  
Piduguralla, Guntur District. Petitioner/Workmen

AND

The Agent, A.C.C. Limited.

M/s. Seetharampuram Lime Stone Mines,

Seetharampuram Post. Piduguralla,

Guntur District.

Respondent/Management.

APPEARANCES :

M/s. G. Vidyasagar and P. Sudheer Rao, Advocate for  
the Petitioner-Workman.

M/s. K. Srinivasa Murthy and G. Sudha, Advocates for  
the Respondent-Management.

## AWARD

The Government of India, Ministry of Labour, New Delhi by its Order No. L-29011/97-IR(Misc.) dated 30-6-1997 referred the following Industrial Dispute to this Tribunal under Section 10(1)(d) and 2A of Industrial Disputes Act, 1947 for adjudication :

"Whether the action of the Management of M/s. ACC Ltd., Seetharampuram Mines Post, Piduguralla, Guntur District in not making payment of dues for lockout period and in not making payment of VRS Settlement dues to the workers is justified."

If not, to what relief the workmen are entitled to?"

Both the parties appeared and filed their pleadings.

2. The General Secretary of the petitioner-union filed the claims statement contending as follows : The petitioner-Union is a registered union under Trade Union Act bearing Regn. No. C-1571 dated 31-8-1991. It represents the workmen working in Limestone Mines at Seetharampuram belonging to the respondent. The respondent-company has a cement factory known as Krishna Cement Works, at Tadepalli Guntur District and it taken limestone mines at Seetharampuram on lease from the Government of Andhra Pradesh. The Respondent has the control over the Factory and Mines from the time of their inception in 1936. The Respondent has entered into an agreement of sale with M/s. Fraser Investment Limited (HMP Group) on 16-12-1989. The Respondent directed the workman in Factory and Mines to work under the control of HMP Group with effect from 21-2-1990. The respondent has not informed or notified to the recognised unions before effecting said transfer. While the matter stood thus, the respondent displayed the notice on 29-5-1993 declaring lock out in the factory and also mines. But at that time there was no strike by the workmen nor any demands were pending. But the management in a high handed manner declared the lock out. The Management categorically conceded before the Regl. Labour Commissioner that the lock out was declared only due to mismanagement and financial troubles. The workmen were not paid wages for the month of May, 1993 prior to lock out also.

The petitioner further contended that the Management introduced a voluntary retirement scheme and agreed before the Regl. Labour Commissioner to pay lumpsum amount equivalent to gross earnings for the month of June, July, August 1993 on or before 9-11-1993 and the union also agreed for it. In spite of mutual understanding, the management has not paid the agreed amounts for the months of June, July and August, 1993. It further contended that the workers working in the mines have also opted for the said scheme. However the workers were not paid the monetary benefits in pursuance of the said scheme.

It further contended that the lock out was continued upto 3-2-1995 and the mine was reopened vide notice dated 4-2-95. Even after re-opening of the mines, the workmen were not paid the wages during the period of lock out and also wages from May, 1993. Hence the union raised a dispute before the Asstt. Commissioner of Labour but it ended in failure which resulted in this reference.

The petitioner contended that the declaring the lock out by the management is illegal, unjustified and there are no valid reasons for it. It further contended that the agreement between HMP and the respondent dated 16-12-1989 is binami agreement and no legal sanctity can be attached to it since it was only agreement of sale and the same has not concluded into the sale deed. The alleged HMP Group was only acting as agency of the respondent. Opening of the mines in February, 1993 by notice dated 4-2-1995 clearly shows that the respondent is only the owner and occupier of mines. Therefore the respondent management has to pay wages to the workmen for the period from May, 1993 to February, 1995. Hence the Management of A.C.C. Limited i.e. respondent is alone liable to pay the wages for lockout period but not the HMP Group. The petitioner thus contended that the action of the respondent in denying wages monetary and non-monetary benefits to the employees for the period from May, 1993 to February 1995 is illegal and unjust and consequently to declare that the lockout is illegal and non-payment of voluntary retirement scheme dues to the workers is also illegal and unjust. It thus prayed to direct the Respondent to pay the dues to the workers together with interest.

3. The respondent filed counter resisting the claim petition contending as follows : It contended that A.C.C. Limited was operating Kistna Cement Works for manufacturing cement prior to 21-2-1990 on which date it handed over to Fraser Investment Limited the factory and the Seetharampuram Mines along with all the employees. An agreement was entered into with Fraser Investment Limited (now HMP Limited) on 16-12-1989 and the Management handed over to HMP Limited along with the factory, Seetharampuram Mines and employees from 21-2-1990. In terms of the agreement, HMP took over the possession, Management and control of Kistna Cement Works from ACC from 21-2-1990 alongwith the employees. Accordingly, the management informed the Industries and Commerce Department, Government of Andhra Pradesh by letters dated 6-3-1990.

It further contended that a Memorandum of Understanding dated 28-12-1993, which was converted into an agreement on 23-2-1994 was entered into between the HMP Cements, Calcutta and ACC Mumbai for taking back by ACC the Ltd. Calcutta and ACC Mumbai for taking back by ACC the Mining Leases on the terms and conditions mentioned therein alongwith 41 employees.

It further contended that during the lock out period from 29-5-1993 to 3-2-1995, H.M.P. was the employer to the employees but not the respondent, as it had already handed over the physical possession of the factory and Seetharampuram Mines alongwith the employees to the Fraser investment private Limited i.e., HMP Limited. Hence there is no relationship of master and servant during the period of lockout between the respondent and the employees of the mines. As the HMP Limited was in exclusive possession and has control over the employees, there is no responsibility to pay the dues to the employees on the part of the respondent. It is contended that the respondent has nothing to do with the lockout nor employment of the persons who were working in the Mines since 21-2-1990 and in particular during the lock out period and also nothing to do with any events during the lock out period and hence the reference is clearly illegal. It thus contended that the application against ACC is not maintainable and has to be dismissed forthwith.

4. In support of its contention, the petitioner Union examined the Packer by name B. Yakob working in A.C.C. Limited Sitarampuram Mines as WW-1 and a Turner by name Chimala Panakalu working in the respondent company, as WW2 and Exs. W1 to W14 are marked. They are President and General Secretary of the petitioners workers union while the respondent examined its Mines Manager Sri M. Sundara Rao as M.W1 and marked Exs. M1 to M62.

5. The following point arises for consideration :  
"Whether the workers are entitled to payment of dues for lockout period and payment of VRS Settlement dues?"

6. POINT : The workers belonging to petitioner's union are claiming wages for lock out period i.e. from 29-5-1993 to 3-2-1995 as well as benefits of voluntary retirement scheme settlement dues from the respondent management. The 1st relief is sought for in respect of 29 employees whose names are mentioned in Annexure I while the 2nd relief is in respect of 4 employees whose names are mentioned in Annexure-II of the claim statement. According to the petitioner union of which WW1 is the President and WW2 is the General Secretary, the lock out was declared by the respondent management and voluntary retirement scheme was also announced by the respondent as such it is liable to pay the wages for the lock out period and implement the voluntary retirement scheme as the workers have not gone on strike and they have not presented any charter of demands as such the lock out declared by the respondent management is illegal. The respondent management on the other hand contended that during the period of lockout it is not the employer of the workers of the petitioner's union but one HMP Cements Limited was the employer and it is the said management which has declared lockout and announced voluntary retirement scheme as such the management of the HMP Cement is the proper and necessary party and it is the said management which is liable to pay wages for the lockout period. Similarly the said management has to implement the voluntary retirement scheme if any as the respondent ACC Cements has transferred the ownership of the Krishna Cement Limited situated at Tadepalli

Tadepally, Guntur District as well as Sitarampuram Mines situated at Piduguralla of same district to the management of HMP cements as early as in the year 1989 and whose original name is Fraser Investment Private Limited.

7. Both the parties have adduced oral and documentary evidence in support of their respective contentions. Thus the crux of the case is whether it is the respondent management or the management of HMP Cements Limited which has declared lock out and announced voluntary retirement scheme if so the respondent management is not liable to pay wages for the lockout period to the employees mentioned in Annexure-I and settle voluntary retirement scheme due to the employees mentioned in Annexure-II of the claim statement.

8. Admittedly the respondent management was the owner of Kistna Cements Limited Tadepally prior and subsequent to the disputed period and has also taken the Seetharampuram Mines situated in Piduguralla on lease from the Government in 1975. The Kistna Cement factory was established as early as in the year 1938. The distance between the factory and the mines is about 100 K.Ms. and the Limestone quarry is being utilised by the Kistna Cement Works. The petitioner union was formed in the year 1991 as can be seen from Ex. W9 xerox copy of certificate of registration issued under Indian Trade Union Act. The petitioner union is submitting returns manually to the concerned authorities as borne out by Ex. W10 and W11. It has held General Body meeting in the year 1997 i.e. 26-3-1997 to elect office bearers and WW1 and 2 were elected as President and General Secretary in the said meeting as borne out by Ex. W13. The lockout which was declared on 23-5-1993 was lifted on 3-2-1995 as could be seen from Ex. W2 communication sent by the management of respondent to the regional labour commissioner while the lock out was declared under Ex. W1 notice. After the lock out was lifted, the petitioner union gave a representation i.e. Ex. W3 to the Dy. Commissioner of Labour marking a copy (for payment of wages) to the respondent to settle their disputes regarding payment of wages for the lock out period and other benefits, which was followed by Ex. W4 letter by the respondent management stating that the management of HMP has to pay wages for the lock out period and other benefits sought for by the petitioner union. The petitioner union thereafter sent Ex. W5 reply to the respondent management stating that it is liable to pay wages for the lock out period and also for implementation of voluntary retirement scheme. But the conciliation proceedings ended in failure. Ex. W6 is the minutes of conciliation and Ex. W7 is the failure report sent by the Asst. Labour Commissioner, Vijayawada leading to this reference. The petitioner union has also presented Ex. W8 representation on 21-4-1997 to the respondent management requesting it to settle the disputes regarding the payment of wages for the lock out period.

9. WW1 and 2 have spoken to the averments in the claim statement; they stated that it is the respondent management which has declared lockout illegally and announced voluntary retirement scheme as such it is liable to pay wages for the lock out period and implement the voluntary retirement scheme in respect of the workers belonging to petitioners union. M.W.1 representing management on the other hand stated that the respondent was not management of Seetharampuram mines during the relevant period as such it is not liable to pay wages for the lock out period as the same was declared by the new management i.e. HMP Cements Limited. (Both sides spoke to various documents marked by both sides). Thus the oral evidence adduced by the parties is conflicting as to who is in management of Seetharampuram Mines situated at Piduguralla during the lock out period. But there can be no dispute with regard to the documents referred to above regarding the formation of the petitioner's union, submission of returns by it, that WW1 and 2 are the office bearers of the union and the conciliation proceedings taken up by the Asst. Commissioner of Labour, Central ended in failure. Hence we have to consider the documentary evidence adduced on behalf of the respondent as well as the documents filed by the petitioner to arrive at the conclusion as to whether it is the respondent management or HMP management which was in control of Seetharampuram Mines during the period of lock out.

10. Ex. M1 is the agreement of sale dated 16-12-89 entered into by the respondent management with Frasers Investment Private Limited for sale of Kistna Cements Limited, Tadepally and for transfer of lease hold rights of Seetharampuram

Mines, Situated at Piduguralla it is not in dispute that the name of the Frasers Investment Private Limited which has entered into Ex. M1 agreement was later changed as HMP Cements Limited. Ex. M55 is the memorandum of association of Frasers Investment Private Limited while Ex. M56 is the articles of association of HMP Cements Limited which was originally called as Frasers Investment Private Limited Pursuant to Ex. M1 agreement which is same as Ex. M58 ACC Cement Limited that is the respondent sent Ex. M2 communication same as Ex. M59 to the Secretary, Industries and Commerce, Government of Andhra Pradesh, Hyderabad informing about the transfer of Mining lease of limestone of Seetharampuram Mines in favour of Frasers Investment Private Limited and enclosing challan of Rs. 500 i.e., Ex. M50 challan. Ex. M3 which is same as Ex. M60 is the agreement entered into by the respondent company with the Frasers Investment Limited on 7-3-1990 for transfer of mining lease in respect of Seetharampuram Mines. Ex. M-4 which is same as Ex. M61 is the letter addressed by the respondent management to the chairman of HMP Cements Limited whose original name is Frasers Investment Limited as stated above, on 28-12-1993 regarding transfer of Mining lease of Seetharampuram Mines. Ex. M5 is the articles of agreement dated 23-2-94 entered into by HMP unit with the respondent management for retransfer of Seetharampuram Mines whose workers are the members of the petitioners union with effect from 31-3-95.

11. Ex. W1 is the intimation of Notice dated 8-10-93 sent by the management of HMP Unit to the Labour Commissioner, Hyderabad declaring lock out in Seetharampuram Mines as well as Kistna Cement Factory with effect from 29-5-93 due to intimidation attitude of the petitioner's union.

12. Ex. M6 is the letter dated 18-1-92 addressed by the office bearers of the petitioner union to the management of HMP Cements Limited for redressal of their grievances as it has taken over the management of Seetharampuram Mines from the respondent and pursuant to agreement entered by the union on 21-2-90 with the respondent management. Thus it is obvious from Ex. M6 that the petitioner union is aware of the transfer of the management of Seetharampuram Mines from the respondent management to HMP Management and hence it has submitted Ex. M6 representation to HMP Management. It is a very crucial document having bearing on the question involved.

13. Ex. M7 is the communication sent by the management to HMP Cement Limited to the Controller General of Mines and other officials on 17-2-92 requesting him to visit the mines at an early date. Ex. M8 is the communication sent by HMP Management to the Director General Mines on 22-9-91 enclosing form I under Metalliferous Mines Regulation, 1966. Ex. M9 is the communication dated 22-9-91 sent by the agent Seetharampuram Mines for HMP Cement Limited to the Controller General, IBM and other officials in Form-I informing that one Sri M. K. Srivastava, General Manager of the agent of HMP Cement Limited Ex. M10 is the communication dated March 1992 sent to the agent Seetharampuram Limestone Mines representing M/s. HMP Cements Limited by the Director of Mines pointing out the defaults noticed by him at the time of inspection of mines. Ex. M11 is the notice dated 10-3-91 regarding the various allowances for the quarter March, 1992 issued by the HMP Cement Limited representing Kistna Cements Works. Ex. M12 is the communication sent by the HMP Cements represented by the agent on behalf of Seetharampuram Limestone to the Regional Labour Commissioner, Central on 15-3-1991. Ex. M13 to M36 are the other letters addressed by the HMP Management on behalf of Seetharampuram Management to various authorities from time to time including monthly returns, submitted on behalf of Seetharampuram Mines. Thus Exs. M7 to M36 would show that Ex. M1 agreement entered into by ACC Cement with Frasers Investment Limited which is later known as HMP Cements Limited was given effect and approved by the concerned authorities.

14. Ex. M-37 is the letter dated 23-2-93 addressed by WW-2 on behalf of the petitioners union to Asstt. Labour Commissioner, Vijayawada complaining that the HMP Management is trying to remove manual labour by Mechanising the quarry activity and requesting the authority to intervene in the matter

and do justice. Thus in the year 1992-93 also i.e. before lock out was declared the petitioner union is aware of the fact that HMP Cements is in management control of Seetharampuram Mines as well as Kistanpuram Mines. This is another crucial document relied on by the respondent.

15. Ex. M38 is the xerox copy of the salary sheet of HMP Cements Limited in respect of employees of Krishna Cement Works as well as Seetharampuram Mines. Thus it would show that it is HMP Management which is paying salary. The petitioner union have no doubt filed Ex. W14 pay slip of WW2 to show that it is the respondent management which is paying salary. But a perusal of it would show that it is for the month of June 1997 by which time admittedly the respondent management has taken over Seetharampuram Mines from HMP Management. The Petitioner has not chosen to file pay slips issued by the respondent management for the period just prior to declaring lockout in proof of the oral evidence of WW1 and WW2 that it is the respondent management which was paying wages to the workers even subsequent to Exs. M1 and M3 agreements entered into by the respondent management with HMP Management for transfer of lease hold rights of Seetharampuram Mines as well as Management of Kistna Cement Works. If the respondent company was paying salary to the workers belonging to petitioners union working in Seetharampuram Mines naturally from 1989 to 3rd February, 1995 on which day lock out was lifted, WW1 and 2 could have filed pay slips similar to Ex. W14 and would have disproved Ex. M38 pay slip.

16. Ex. M39 is the letter addressed to the Manager, Seetharampuram Mines Limited by the Director of Mines Safety on 25-8-93 with regard to the annual returns submitted by the management. Ex. M40 is the letter addressed by the General Manager, Kistna Cement Works to Asstt. Mines Manager, Seetharampuram Mines regarding submission of annual returns of the year 1992. Ex. M41 is the annual returns submitted by Kistna Cement Works. Ex. M42 is the letter dated 10-9-93 addressed by Director of Mines Safety to the agent Sri S. N. Shukla of Seetharampuram Limestone Mines of HMP Cements Limited informing him that the change of name of the establishment from HMP Cements to Kistanpuram Works is to be notified, the appointment of agent shall be intimated to the Director and approving the authorisation of Sri M. L. Swamy to act as Manager only for 30 days and requesting the management to appoint a 1st Class qualified manager; Ex. M43 is the letter addressed by Dy. Director of Mines dated 10-9-93 to Sri S. N. Shukla of Kistna Cements Limited about the defects noticed at the time of inspection and to comply with the same. Ex. M44 is the letter dated 14-9-1993 addressed to the Director of Mines on behalf of Kistna Cements Limited about the situation prevailing in the Mines due to unhelpful attitude of the workers and suspension of the work in the mines from 29-5-1993. Ex. M45 is the returned letter dated 18-9-1993 submitted on behalf of Kistna Cements Limited to Controller General to the Indian Bureau of Mines regarding Seetharampuram Limestone Mines. Ex. M46 is the authorisation letter given to Mr. Vijay Kumar to act as Mines Manager till the new mines manager is appointed as the resignation of Asst. Mines Manager with effect from 1-11-93 is accepted. Ex. M47 is the letter dated 1-11-1993 enclosing Form No. 1 sent on behalf of Seetharampuram Limestone to the Director General of mines regarding appointment of Sri S. N. Shukla as General Manager agent. Thus Ex. M-39 to 47 correspondence also show the HMP Cements was in control or Management of mines in question.

17. Ex. M48 is the judgement in STC No. 132/96 on the file of 1st Additional Munsiff Magistrate, Gurajala in respect of complaint filed by the executive officer Gram Panchayat, Gurajala, against the General Manager, Seetharampuram Mines for non payment of house tax for the years 1993-94, 1995-96. The said judgement is filed to show that the management of HMP was prosecuted for non payment of house tax but not the respondent management, and this would show that the respondent has nothing to do with the management during the period of lockout. Ex. M49 is the indemnity bond entered into by Frasers Investments Limited and the respondent corporation. Pursuant to Ex. M1 agreement dated 16-12-1989 Ex. M51 just is same as Ex. M2 and, M59 addressed by ACC Cements to the Secretary Industries and Commerce about the transfer of lease of Seetharampuram

Mines in favour of Frasers Investment Private Limited Ex. M52 is the communication dated 27-2-1991 sent by the Director of Mines and Zoology to Asst. Director of Mines, Guntur to inspect the Seetharampuram Mines and submit his report pursuant to the application for the transfer sent by Kistna Cement Works. Ex. M53 is the income tax clearance certificate submitted by Frasers Investment Limited. Ex. M54 is the extracts of minutes of the extra ordinary General Meeting of M/s. Frasers Investment Limited held on 5-5-1990 to carryout the corrections to substitute name of HMP in the place of Fraser Investment Limited wherever it appears in the memorandum and articles of association of the company i.e. Exs. M55 and M56 which were already referred.

18. Thus from the above documents marked on behalf of the respondent it is obvious that the lease hold rights of Seetharampuram Mines as well as the ownership of Kistna Cements Works have been transferred in the year 1989 originally in favour of Frasers Investment Limited whose name has been later changed as HMP Cements Limited by the respondent ACC Cement and the petitioner union is also aware of the said transfer as they entered into agreement with respondent on 21-2-90 though WW1 and 2 tried to express their ignorance about the said transfer in the course of third evidence. The lock out as stated above, was declared on 29-5-93 and was lifted on 3-2-1995 during which period the management of Seetharampuram Mines was with HMP Cements Limited. The petitioner union has not objected to the said transfer and as per the Ex. M1 agreement not only machinery but also the service of the workers were also transferred to HMP Cements Limited and under Ex. M6 the previous office bearers of the petitioner union have requested the management of HMP Cements as early as on 18-1-1992 to extend the benefits which they were enjoying under the previous management and which they have agreed to honour at the time of taking over the management. It is also stated in Ex. M6 that the workers have also entered into an agreement with ACC Cements i.e. the respondent management to work under HMP Management.

19. Under Ex. M37 the union has complained to Asst. Commissioner of Labour against the HMP Management only which intended to introduce mechanical device in the place of manual labour for loading and unloading of limestone, etc.

20. Under Ex. W3 representation dated 1-4-1995 sent to the Dy. Commissioner Labour by the petitioner union represented by WW1 and 2 it has been mentioned that though Seetharampuram Mines which was started in the year 1938 and Kistna Cements Factory which were under the control of respondent management till 1989 have been sold to Frasers Investment Limited where name was later changed as HMP Cements Limited and the HMP Cements Limited is running both the factory as well as the mines since 1993 and in May 1993 the said management has declared lock out from May 1993 to March 1995 and also announced voluntary retirement scheme but till now wages for lock out period were not paid and voluntary retirement scheme was not implemented by the HMP Management but to their surprise they came to know that the management of Seetharampuram Mines was again transferred to the respondent management and it is insisting workers to work with them or to fact transfer, for which they are not agreeable. Thus even as per Ex. W3 also the management of Seetharampuram Mines was with HMP Cements Limited at the time of declaration of lock out.

21. In Ex. W4 the respondent management has made it clear to the petitioner union that it is the HMP Management which has to pay wages for lock out period and they took out the management only in February 1995 ever since the workers of the petitioners union are on their rolls and prior to that they are on the rolls of HMP only, as such petitioners have to settle the matter with their previous employer and it is also not aware of the VRS Scheme introduced by the previous management.

22. As per Ex. M5 articles of agreement dated 23-2-94 under which HMP Management has agreed to retransfer the Kistna Cement Works as well as the lease hold rights of Limestone of Seetharampuram Mines in favour of respondent which has to come in to affect from February 1995, the HMP shall pay all the dues payable to government etc. As



per articles of the agreement dated 3-2-1995 which formed part of Ex. M5 after the government of A.P. agreed to renew mining lease for 20 years in favour of ACC Cement i.e., respondent, the HMP Management has agreed in para 4 and 5 of the agreement that the respondent management shall also take over the workman totalling 41 without break of service on the same terms and conditions, and shall not be in any way less favourable than presently subsisting and the respondent management has also agreed to abide by and comply with the proviso to Sec. 25-FF of the Industrial Disputes Act and it is further agreed that all the liabilities in respect of all aforesaid employees up till date of agreement i.e. 3-2-1995 shall be with that of the HMP Management. In para 6 it was further agreed that the respondent management shall have no liability in regard to the dues to the workers or any payment to be made to them under any head for the period upto the date of the agreement and HMP management shall indemnify the respondent management in this behalf if any such liability arises.

23. Thus as per the above articles of agreement dated 3-2-1995 which was proceeded by the agreement dated 23-2-1994 to retransfer the Kistna Cement Works as well as Seetharampuram Mines in favour of ACC Cements i.e. respondent management it is HMP Management which has to pay all the amounts payable to workers till 3-2-1995. I find no reason to doubt the bona fides or genuineness of this agreement. I am unable to agree with the contention of the learned counsel for the petitioner that this agreement has been brought into existence to defeat the right of the workers of the petitioners union who are legitimately entitled to wages during the lockout period, from realising the same from the respondent management which has admittedly took over the management of the Seetharampuram Mines though it has earlier transferred the same in favour of HMP Cements Limited. Hence it is crystal clear from the material placed on record that the loan amount was declared by HMP Management but not by the respondent.

24. It is contended in the claim statement that the agreement entered into by the respondent management with HMP Cement Limited for transfer of lease hold rights of Seetharampuram Mines of Piduguralla and ownership of Kistna Cements Limited Tadepally are only benami transactions but no evidence was placed on record in proof of the said allegation.

25. On the other hand the document referred to above would clearly go to show that Ex. M-1 agreement and other agreement entered into between the respondent management and HMP Management were given affect to and they were duly accepted and recognised by the concerned mining authorities who made correspondence with HMP Cements Limited with regard to the affairs of Seetharampuram Mines from the year 1991 onwards and the workers have also accepted the management of HMP Limited and agreed to work under it by presenting Ex. M-6 letter dated 18-1-92 followed by Ex. M-37 letter addressed to the Assistant Labour Commissioner, Vijayawada and Ex. W-3 representation dated 1-4-95 made to Dy. Commissioner Labour, Central where in also it is stated that the management was taken over by HMP Limited from ACC Cements Limited in the year 1990. No material was placed on record to show that the petitioner has made any representation to the respondent management during the year 1990-95, more particularly between May 1993 to February 1995 demanding wages from the respondent management. As stated above though Ex. W-14 pay slip for the year 1997 was filed, the petitioner union has failed to the similar pay slip for the year 1993-95 during which period lockout was declared or for the period from 1989-93 before the lock out was declared to show that it is the ACC Management which was paying wages to the petitioners workers even after 1990 and Ex. M-1 agreement regarding transfer of lease hold rights of Seetharampuram Mines by ACC Cements in favour of HMP Management is only a make believe one.

26. I am of the view simply because under Ex. M-5 the HMP Management has agreed to retransfer the lease hold rights of Seetharampuram Mines in favour of the respondent management it cannot be said that Ex. M-1 and M-3 are sham documents brought into existence to defeat the rights of the workers.

It has come out in the evidence of WW-2 that since 1989 till the date of giving evidence there was no production in HMP unit though he denied the suggestion that the lock out was declared by the HMP Management as the workers went on strike. Thus it is obvious that no quarry work was carried on in Seetharampuram mines on any date from 1993 as admitted by WW-1 also in his evidence.

27. As per Ex. M-1 letter sent by HMP management, the workers were intimidating the Sr. Management persons and also in reiterating them with dire consequence as result of which the work came to stand still as the workers are preventing the removal of the goods etc., required for running the factory. Hence there is no alternative for management and it is constrained to declare lock out. There is nothing in the evidence of WW-1 or WW-2 who became office bearers in the year 1996 to show that the previous office bearers have protested for declaring the lock out or challenged the legality of the lock out declared by the HMP Management. Thus it is obvious that due to the labour unrest prevailing in the factory as well as in the mines due to non-production of calcium which is the raw material required for running the Kistna Cements Factory at Tadepally, the HMP Management was forced to declare lock out and they have intimidated the same immediately to the concerned authorities like labour Commissioner, Hyderabad, Dy. Labour Commissioner, Hyderabad etc. Thus it is beyond doubt by the HMP management declared the lock out in question for reasons mentioned in Ex. M-1 carry to voluntary retirement scheme.

28. It is in the evidence of WW-1 and 2 that the voluntary retirement Scheme was announced in the year 1993. They have not filed copy of the voluntary retirement scheme to know what benefits proposed to be given under the scheme. Even otherwise the management of Seetharampuram mines of which members of the petitioner union are the workers, was with HMP Management as could be seen from the above voluminous documentary placed on record by the respondent and it has to give effect to that scheme.

29. As HMP Cements Limited has not been made a party to the reference by the petitioners though they are aware of the fact that it was HMP management which was in actual control of the management of Seetharampuram Mines during the relevant period i.e. from 29-5-93 to 3-2-95 for which period the petitioner's union is claiming wages for 29 workers shown in the entire one, I am of the view that the petitioners are not entitled to any of the reliefs claimed in this reference. Simply because of Ex. M-5 agreement provides for reimbursement by the previous management of the amounts if any paid by the respondent management to the workers it cannot be said that the respondent management has to pay the wages for the lock out period and realise the same from the HMP Management.

30. I am of the view having regard to the facts and circumstances of the case that HMP Management is not only a proper but also a necessary party to the proceedings for the effective adjudication of all the questions involved in this industrial dispute.

31. In view of the above discussion, I therefore conclude that the petitioner was not able to prove by satisfactory evidence that it is the respondent who has to pay wages for the lock out period to the workers mentioned in annexure-I of the claim statement and also implement the voluntary retirement scheme in respect of 4 employees mentioned in Annexure-II of the claim statement on the ground that it is the respondent management which has declared lock out and it is the said management which has introduced voluntary retirement scheme. I therefore held that the claim of the petitioners that it is respondent who has to satisfy the above reliefs is not justified. I am of the view the petitioner workmen can seek the reliefs sought for in the industrial disputes from HMP Management only as provided under Ex. M-5 agreement as such they are not entitled to any relief in this industrial dispute as the lock out was declared by the HMP Management as disclosed by Ex. M-1 marked by the petitioner. The point is accordingly answered.

32. In the result the reference is rejected holding that the petitioner has failed to make out that they are entitled to reliefs sought for from the respondent management.

Dictated to the Sr. Stenographer, transcribed by her, corrected by me and given under my hand and the seal of this Tribunal, this the 28th day of September, 1998.

C. V. RAGHAVIAH, Industrial Tribunal-I  
Appendix of Evidence

Witnesses Examined for  
the Petitioner :

WW-1—B. Yacob.

WW-2—Ch. Panakulu.

Documents marked for the Petitioner/Workman

- Ex. W-1—Copy of notice of continuation of lock out dated 2-10-93.
  - Ex. W-2—Intimation dated 4-2-95 by the management regarding lifting of lock out.
  - Ex. W-3—Representation dated 1-4-95 made to DCL (C) regarding lockout.
  - Ex. W-4—Letter dated 29-11-95 of the Agent of the Mines, regarding the dues settlement of HMP company employees and existence of VRS Scheme and the transfer of employees.
  - Ex. W-4—Reply dated 19-6-96 given by the union to Ex. W-4.
  - Ex. W-6—Minutes of conciliation of ALC (C) Vijayawada.
  - Ex. W-7—Failure report dated 31-1-97 submitted by ALC (C), Vijayawada.
  - Ex. W-8—Representation dated 21-4-97 made to the Vice President ACC Manchiryal Cements Works, Manchiryal.
  - Ex. W-9—Xerox copy of certificate of legislation of the union.
  - Ex. W-10—Trade Union annual return (xerox copy) filed by the union from the year 1995.
  - Ex. W-11—Trade Union annual return (xerox copy) filed by the union from the year 1996.
  - Ex. W-12—Copy of the General Body Meeting of the Union.
  - Ex. W-13—General Body Meeting proceeding dated 26-3-97 electing the new body of the union.
  - Ex. W-14—Pay Slip of the WW-2.
- Documents marked for the management
- Ex. M-1—Xerox copy of lease deed dated 16-12-89 between Associated Cement Companies Limited and Fraser Investment Limited, dated 16-12-89.
  - Ex. M-2—Letter dated 6-3-90 addressed by ACC to the Secretary Industries and Commerce Department regarding mining lease for limestone.
  - Ex. M-3—Xerox copy of agreement deed dated 7-3-90 transferring the mining lease.
  - Ex. M-4—Letter addressed by ACC dated 28-12-93 to the Chairman of HMP Cements with regard to assignment of land right, Seetharampuram Mines under three leases.
  - Ex. M-5—Xerox copy agreement dated 27-2-94 between ACC and HMP Cements.
  - Ex. M-6—Letter dated 18-1-92 of the union to HMP management with regard to their demands.
  - Ex. M-7—Letter by the agent of the mines as per Mining regulation.

- Ex. M-8—Letter of the mines agent to the Director General of Mines.
- Ex. M-9 to M-36—Documents filed before the Mines authority by the HMP Cements Management.
- Ex. M-37 Letter addressed to ALC, Vijayawada by the management of HMP Cements dated 23-3-93.
- Ex. M-38—Pay Sheet for the month of April, 1993 belonging to HMP Cements for Seetharampuram Mines.
- Ex. M-39—Letter addressed by Director General of Mines to HMP Cements for compliance of regulation No 5 of metallic ferrous mines, regulation.
- Ex. M-40—Annual return submitted to the mines authorisation.
- Ex. M-41—Krishna Cements pay sheet for the month of September 1993.
- Ex. M-42—Letter addressed by Director General Mines safety for inspection of Seetharampuram mines.
- Ex. M-43—Letter dated 10-9-93 of Dy. Director of Mines and Safety to the HMP Cements with regard to the returned of shields.
- Ex. M-44—Letter of HMP Cements to the Director of Mines and Safety dated 1-9-93 regarding the difficulties in Seetharampuram Mines from 29-5-93.
- Ex. M-45—Return submitted to the Mines Authority by HMP Cements dated 18-9-93.
- Ex. M-46—Letter of Seetharampuram Mines to Mr. Ajay Kumar that Sri M. L. Swamy was the Asst. Mines Manager as he was given authorisation.
- Ex. M-47—Form No. 1 along with enclosures submitted to the Director of Mine and Safety.
- Ex. M-48—Certified copy of STC 137/96 dated 23-10-96.
- Ex. M-49—Xerox copy of indemnity bond.
- Ex. M-50—Challan.
- Ex. M-51—Letter addressed to the Secretary Industries and Commerce (Mines-IV) Department, Government of Andhra Pradesh, Hyderabad.
- Ex. M-52—Memo dated 27-2-91 by the Department of Mines and Geology, Hyderabad to the Asst. Director of Mines and Geology.
- Ex. M-53—Income tax clearance certificate.
- Ex. M-54—Extract of Fraser Investment Limited regarding change of name from old name to HMP Cement Limited.
- Ex. M-55—Memorandum of Association of Fraser Investment Private Limited.
- Ex. M-56—Articles of Association of HMP Cement Limited.
- Ex. M-57—Copy of the agreement between ACC Cement and HMP Cements Limited dated 3-2-95.
- Ex. M-58—Agreement between ACC Limited and Fraser Investment Limited, dated 16-12-89.
- Ex. M-59—Letter of the ACC Limited dated 6-3-9 addressed to Secretary, Industries and Commerce Department regarding transfer of Mines Lease.
- Ex. M-60—Letter of the ACC Limited, dated 6-3-9 addressed to Secretary, Industries and Commerce Department regarding transfer of Mines Lease.
- Ex. M-61—Letter of the Vice Chairman and Managing Director of ACC to Sri M. P. Poddar dated 28-12-9 Chairman, HMP demands.
- Ex. M-62—Articles of agreement dated 23-2-94 between the ACC Limited and HMP Limited.



नई दिल्ली, 7 दिसम्बर, 1998

## AWARD

का.आ. 2722.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डोनिमलाई आयरन ओर माईन्स, मै. नेशनल मिनेरल डेवलपमेंट कारपोरेशन के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-12-98 को प्राप्त हुआ था।

[सं. एल-29025/10/98-आई.आर. (विभिन्न)]

बी.एम. डेविड, डेस्क अधिकारी

New Delhi, the 7th December, 1998

S.O. 2722.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the industrial dispute between the employers in relation to the management of Donimalai Iron Ore Mines of M/s. National Mineral Development Corp. and their workman, which was received by the Central Government on the 3-12-98.

[No. L-29025/10/98-IR (Misc.)]

R. M. DAVID, Desk Officer

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT, BANGALORE

Dated, the 11th November, 1998

## PRESENT :

Justice R. Ramakrishna, Presiding Officer  
C. R. No. 28/89

## I PARTY :

Sri S. Venkatavaradhan,  
Rep. by General Secretary,  
Donimalai Iron Ore Project  
Employees Association,  
Donimalai Township,  
Donimalai-583118.

## II PARTY :

The General Secretary,  
Donimalai Iron Ore Mines,  
M/s National Mineral  
Development Corporation,  
Donimalai Township,  
Donimalai-583118.

The Government of India in exercise of the powers vested in it under Section 10(1)(d) read with Sub-Section (2A) of the Industrial Dispute Act, 1947 (14 of 1947) has referred the following points of dispute for adjudication :

"Whether the Management of Donimalai Iron Ore Mines or M/s National Mineral Development Corporation Ltd., Donimalai, Bellary District, is justified in not promoting Sri S. Venkatavaradan as Armature Winder. If not, what relief is Sri Venkatavaradan entitled to ?"

Consequent to this reference after registration of the dispute notices were sent to the parties. They have filed their Claim Statement and Counter Statement. Since, the schedule covered by the reference is only issue require adjudication no separate issues are framed. The parties have been asked to put forth their case by placing both oral and documentary evidence.

A simple case of this nature has been successfully dragged for a period of 10 years when the issue involved was simple.

On behalf of the workman, he examined himself as WW1 and on behalf of the II Party a Personne Officer was examine as MW1. On behalf of the I Party Ex. W1 to Ex. W3 are marked, and on behalf of the II Party Ex. M1 to M 31 were marked.

The material averments made by the I Party in support of his contention is that the II Party failed to give a promotion to work as Armature Winder shortly herein afterwards referred to as AW. The I Party contended that he has joined as Fitter Grade I on 6-8-69 on a salary of Rs. 7 per day. Since it was an exploratory stage his service was regularised subsequently. Then from 20-4-72, he worked as a Khalasi and thereafter promoted as Maintenance Assistant (Elec.) till August 1977. He has admitted that as per the memo he was informed that the promotional channel from the Maintenance Assistant (Elec.) was to the post of Electrician Grade III. It is his further contention that he was engaged as Assistant to the then AV Sri M. Hanumantharao with effect from 1977. He appears to have acquired efficiency and skill in AW matters and therefore he made representation during December 1984, to be appointed as AW. His further grievance is that the II Party does not consider his promotional benefit and a measure of bias he has been asked to work in various departments till he raised the dispute.

Therefore, it is crystal clear that the workman is making out a case that his promotion shall be based on his skill on the ground that he has worked under Sri Hanumantharao. The other contentions raised

by the workman is not relevant to adjudicate the issue in question.

The II Party has totally resisted the contention raised by the I Party workman on the grounds of non existence of the post AW lack of qualifications to get the post of AW and the locostandi of the workman to make such claim when he was a member to the Union which has entered into settlement with the II Party agreed for certain arrangements reached between Union and the Management which resolved many important questions and therefore the claim of this workman is speculative and unjustifiable.

It is mainly contended consequent to this Settlement dt. 23-8-80 between National Mineral Development Corporation Workers Federation and its affiliated Unions, post of AW was abolished as it was an ex-cadre post and therefore, the work of AW has become a part of an Electrician's job and that being so the Conciliation Authorities have exceeded their jurisdiction to send a Failure Report.

It is further contended that the I Party workman who was a Daily rated employee was absorbed as a Khalasi during March 1972 which is an unskilled work in nature and is common to all disciplines. As per the Memorandum of Settlement dt. 30-10-71 the workman was promoted to the next post of Maintenance Assistant (Elec.) with effect from 30-5-75. It is the case of the II Party once the next promotion is obtained then future promotions would be only in accordance with the Channel of promotions in that particular department only as the departments were divided into Electrical, Mechanical, Plant, Mines etc.

It is further contended as per the job specification for the post of AW the qualification prescribed was LEE or ITI with prescribed Statutory Certificate. Similarly for the post of Electrician Grade III which is the post next above the post of Maintenance Assistant (Elec.) in the Electrical discipline, the normal channel of promotion of the workman the qualification prescribed was Middle Class pass or ITI with prescribed Statutory Certificate.

As against this requirement the qualification of the I Party workman was 9th Standard pass but he does not possess prescribed Statutory Certificate namely 'Wireman Permit'.

The II Party further contended that the application of the I Party dt. 14-10-85 were referred to Grievance Committee to consider the claim for promotion and the Grievance Committee comprising of equal representatives from the management and from the workman had met on 30-10-85 and on 20-11-85. After thorough examination the grievance of the I Party in the light of the provisions of Memorandum of Settlement dt. 30-10-71 and

23-8-80 which provided for job description/job specification, channel of promotion, scale of pay applicable for each category, unanimously came to the conclusion that there was no merit in the grievance of the I Party workman and advised him to acquire the Statutory Certificate for considering for promotion to the post of electrician grade III.

Therefore, the II Party prayed to adjudicate the contentions of the I Party workman as superfluous and against the norms of promotions, promotional policy and violation of the Settlement.

The I Party who was examined as WW1 has totally subscribed the contentions raised by the II Party. A brief reading of the evidence came during cross-examination totally decides the issue in question.

He has stated in his evidence that he was a member of the Union approved by the management and in statement made by the federation is binding on the Union including himself. He has accepted the Settlement marked as M1 and M2 and also another Settlement of 1980 marked as Ex. M4. He has admitted his appointment as Khalasi as per Ex. M5 which he has accepted and joined for duty. He has admitted that the post of Khalasi is common to all departments and transfer from one department to another department has not denied that his educational qualification as SSLC fail. He has also admitted that he has not acquired any other qualification. It is his admission that in the year 1975 he was promoted as Maintenance Assistant and assigned to the Electrical Department as per Ex. M10. He has further admitted that the promotion from Khalasi is Maintenance Assistant and once the department is fixed it is not interchangeable.

He has further stated that Ex. M2 and Ex. M4, the respective settlements prescribed the line of promotions in all the departments including Electrical Department. He has admitted that the job specification and eligibility for the post of AW is stated in Ex. M2A and he does not have the qualification prescribed under Ex. M2A. He has further admitted that the post of AW is a Ex-cadre post drawn from the post of Electrician. He has further admitted that as per the Settlement Ex. M4 the post of AW has been abolished. He has further admitted that after Ex. M4 nobody is working in the designation of AW. He has further admitted that he is working as the Maintenance Assistant in the electrical Department when his evidence was recorded by this Tribunal. He has further admitted that he has not acquired qualification for getting promotion to the post of electrician Grade III prescribed under the Settlement Ex. M2 and Ex. M4.

The witness for the II Party almost gave the overall picture of promotional avenues, the necessary qualification an employee should have to get the promotions. The evidence of this witness is virtually on par with the evidence stated by the workman in his cross examination.

These materials does not lead for any ambiguity as to what criteria the II Party shall observe in the matter of promotions.

I am not troubled myself in narrating the evidentiary value of the documents relied by both parties. This stand is taken in view of the fact that the contents of the documents are clearly expressed in the oral evidence of the witnesses.

The case of Sri Hanumantha Rao referred by the workman as a sheet-anchor to get his promotion is legally not sustainable. The said Hanumantha Rao had necessary qualification to work as a AW, even if his qualification is deficient to that post his appointment is prior to the settlement wherein the post of AW is abolished once for all. Therefore, a claim to a post which was abolished in a Settlement agreed by both the parties cannot be revived merely the workman say so. It is also unfortunate that the Union having known these legal hurdles in claiming a promotion for an abolished post is didafutile exercise. venture to waste the time of all the authorities concerned including the time of the concerned workman.

On the facts and circumstances glaring on the points in issue there could not be any order except rejecting the claim of the workman.

### ORDER

For the reasons stated above, this reference fails and the same is rejected; (Dictated to the Steno, transcribed by her & corrected by me).

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 30 नवम्बर, 1998

कां० 2723.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई० सी० एल० के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-11-98 को प्राप्त हुआ था।

[सं० एल० 22012/377/96-आई.आर. (सी-II)]

वी० के० राजन, डेस्क अधिकारी

New Delhi, the 30th November, 1998

S.O. 2723.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the

management of E. C. Ltd. and their workman, which was received by the Central Government on 26-11-98.

[No. L-22012/377/96-IR (C-II)]

V. K. RAJAN, Desk Officer

### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, ASANSOL

Reference No. 60 of 1997

### PRESENT :

Shri R. S. Mishra, Presiding Officer.

### PARTIES :

Employers in relation to the management of Madujore Colliery of M/s. E. C. Ltd.

### AND

Their Workman.

### APPEARANCES :

For the Employer—Sri P. K. Das, Advocate.

For the Workman—None.

INDUSTRY : Coal.

STATE : West Bengal.

Dated, the 12th November, 1998

### AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication vide Government of India, Ministry of Labour's Order No. L-22012/377/96-IR (C-II) dated 22-8-97/2-9-97 :

"Whether the denial of the management of Madujore Colliery under Kajora Area of ECL to pay wages for the period from 27-2-95 to 21-6-95 to Shri Daharu Gore, Pump Khalasi, is legal and justified ? If not to what relief is the workman entitled ?"

2. The union neither appears nor takes any step. It seems they are no more interested in the dispute.

3. Hence 'No Dispute Award' is passed.

R. S. MISHRA, Presiding Officer

नई दिल्ली, 30 नवम्बर, 1998

कां० 2724.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन० सी० एल० के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-11-98 को प्राप्त हुआ था।

[सं० एल० 22012/298/96-आई.आर. (सी-II)]

वी० के० राजन, डेस्क अधिकारी

New Delhi, the 30th November, 1998

S.O. 2724.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the

management of N. C. Ltd. and their workman, which was received by the Central Government on 26-11-98.

[No. L-22012/298/96-IR (C-II)]

V. K. RAJAN, Desk Officer

#### ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT, PANDU NAGAR, DEOKI  
PALACE ROAD, KANPUR

Industrial Dispute No. 128 of 1997

In the matter of dispute between :

Joint Secretary,  
Coalfield Labour Union,  
Camp House No. 230, Post Office Bina Project,  
District Sonbhadra.

AND

General Manager,  
Northern Coalfield Limited, Bina Project,  
Post Office Bina, District Sonbhadra.

#### APPEARANCES :

O. P. Mathur for the workman and V. K. Gupta for the Management.

#### AWARD

1. Central Government, Ministry of Labour, vide notification No. L-22012/298/96/IR (D-II) dated 24-7-97 has referred the following dispute for adjudication to this Tribunal:—

Whether the demand of Coalfields Labour Union, Singrauli Zone for promoting Sri P. S. Pandey, Dumper Operator (Trainee) Bina Project of NCL as Dumper operator Gr. II w.e.f. 7-10-87. Dumper Operator Gr. I w.e.f. 7-10-89 and for Sr. Dumper Operator alongwith his other colleagues is legal and justified? If so to what relief is the workman entitled and from which date?

2. There is no dispute that the concerned workman Prem Sagar Pandey was engaged as Mazdoor Driver on 7-1-83, lateron he was given driver category 5 on 8-11-83. He was sent for training as Dumper Operator.

3. The case of the concerned workman is that he had clear training in April 1987, hence he became entitled for promotion as Dumper Operator Juniors to him have been promoted in Gr. II on 26-2-87 and Gr. I on 7-10-89. As the concerned workman had cleared the training he is also entitled for promotion as Dumper Operator Gr. II w.e.f. 7-10-87 and Gr. I w.e.f. 7-10-89.

4. In the written statement it has been alleged by the management that during the course of training the work and conduct of concerned workman was not satisfactory. He was short of attendance. He did not undertake training. Subsequently he was issued chargesheet as well on 19-3-90 for manhandling. He also did not appear in interview, hence he is not entitled for promotion.

5. In the rejoinder it was alleged that during the course of training the concerned workman was not given proper vehicle hence he could not do work.

6. In support of his case the concerned workman Prem Sagar Pandey W.W.1 has examined himself. Besides he has filed hosts of papers some of which are by way of papers to show that he had made complaint regarding difficulty of vehicle. In rebuttal there is evidence of Ashok Kumar Srivastava, M.W.1. Management have also filed papers.

7. It is to be seen if the concerned workman was not promoted for want of satisfactory work. In this regard as said earlier there is evidence of A. K. Srivastava. There are copies of memos Ext. M-4 to M-19 to show that from 20-5-87 to 7-12-87. The management had been regularly issuing memos showing that his work was not satisfactory. Further he did not attend the training regularly. In this way there is shortage of attendance. There is Exts. M-20 to M-26 by which the concerned workman was asked to appear in test. On the other hand workman had filed copies of application to show that he had been ventilating his grievance to show that he was not given proper vehicle.

8. Having considered this evidence I am inclined to accept the version of the management as it find support from regular memos issued to the concerned workman during the course of training it cannot be said that these documents have been manipulated for the purpose of this case. I am further of the view that the objection of the workman regarding difficulties in supply of vehicle, is after thought and has been given to overcome his shortcoming. In view of it I believe the version of the management and hold that work of the concerned workman was not satisfactory during the course of training. Hence my finding is that he was rightly not promoted. If his work and conduct is not satisfactory. He cannot make any grievance that juniors to him have been promoted. However there is one objection to the conduct of management. If the work and conduct of concerned workman was not satisfactory during the course of training he ought not to have allowed to continue as Dumper Operator during for such a length of time. He should have been reverted to his original post. In these circumstances I would like to make my award as under—

My Award is that non-promotion of the concerned workman by the management as Dumper Operator Gr. II or Gr. I is justified. However, I direct that another opportunity should not be given to the concerned workman within one year of the publication of this award to appear in test. If he clears he will not be entitled for promotion otherwise it will be open to the management to deal his case as warranted by law. In any case if such test is not held within one year from the publication of award the concerned workman will be deemed to have cleared the test of dumper operator and will be not entitled for the post after expiry of one year from the date of award.

Dated : 16-11-1998.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 30 नवम्बर, 1998

कां.प्र. 2725.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ० सी० आई० के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पचाद को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-11-98 को प्राप्त हुआ था।

[सं० एल० 22012/21/97-आई.प्रार. (सी-II)]

वी० के० राजन, डेस्क अधिकारी

New Delhi, the 30th November, 1998

S.O. 2725.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of F.C.I. and their workman, which was received by the Central Government on 26-11-98.

[No. L-22012/21/97-IR (C-II)]

V. K. RAJAN, Desk Officer

## ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 45 of 1998

In the matter of dispute between :

State Secretary,  
Bhartiya Khadya Nigam Karamchari Sangh,  
5/6, Habibullah State,  
Hazratganj,  
Lucknow-226003.

AND

Senior Regional Manager,  
Bhartiya Khadya Nigam,  
5/6 Habibullah Estate,  
Hazratganj,  
Lucknow.

## AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its notification no. L-22012/21,97-I.R. (C.II) dated 11-3-1998, has referred the following dispute for adjudication to this Tribunal:—

"Whether the action of the management of Food Corporation of India, Lucknow to impose punishment of reduction to next lower rank i.e. AG-II(D) at the minimum of the scale and fixing of seniority of Shri S. K. Haikarwal is legal and justified? If not, what relief i.e. is entitled to?"

2. The concerned workman S. K. Haikarwal was admittedly working as AG-I (D) at Camp Complex Unit B in district Sandila of the opposite party Food Corporation of India. He was issued a charge sheet dated 5-4-1995 which runs as under :—

Said Sri S. K. Haikarwal AG-I(D) while posted and functioning as incharge of Unit B at CAP Complex Sandila w.e.f. June 1986, failed to maintain absolute integrity and devotion to duty and acted in a manner of unbecoming FCI employee as much as he committed the following irregularities—

Said Sri Haikarwal misappropriated a qty. of 5292,32,200 qtls wheat from unit B consisting of plnth no. 4, 5, 6, 7 and 8 at CAP Complex Sandila and he avoided to declare storage loss and actual qty of damaged stocks to hide misappropriation of stocks committed by him in contravene with SR Ahirwal AM(D) for personal gain which caused financial loss to FCI to the tune of Rs. 1481850.16.

## Article no. II

Sri S. K. Haikarwal AGI (D) deliberately issued wheat stocks from as many as 16 stacks at a time and converted them into part stacks with scattered bags. He left the stocks uncovered during rains and allowed to cause damages to cover up misappropriation of stocks. FCI suffered from the loss of Rs. 1,48,706 on account of damage caused to the stocks.

## Article no. III

Sri S. K. Haikarwal AG-I (D) deliberately avoided to provide relevant records on demand of regional office, FCI Lucknow through DM/FCI Sitapur to hide, misappropriation of stocks committed by him.

Thus said Sri S. K. Haikarwal AGI(D) contravened the Regulations 31 and 32 read with 32-A of FCI (Staff) Regulations 1971.

One Rahul Mishra an officer of the opposite party was appointed enquiry officer. He gave his report dated 29-6-1996 holding that all the three charges were not proved. Disciplinary authority did not agree with this report hence he ordered for reversion of the concerned workman from AG-I to 3354 GI/98—16.

AG-II vide order dated 22/27-6-96. Feeling aggrieved the concerned workman has raised the industrial dispute. It has been submitted that the disciplinary authority had erred in disagreeing with the report of the enquiry officer and thereby imposing punishment without issuing any notice.

3. The opposite party Food Corporation of India in written statement have maintained that due procedure was adopted, hence the only point which needs consideration is as to whether the disciplinary authority had acted in accordance with law. There is no dispute that under regulation 59(2) of Staff Regulation 1971 disciplinary authority has disagreed with the report of enquiry officer and that for that reasons have to be given. The concerned workman has submitted that it is not enough. Reference has been made to the case of Ram Kishan versus Union of India 1995 (71) FLR 929 in which the procedure which is to be adopted by the disciplinary authority while disagreeing with the report of the enquiry officer has been laid down. It runs as under :—

The purpose of the show cause notice, in case of disagreement with the findings of the enquiry officer is to enable the delinquent to show that the disciplinary authority is persuaded not to disagree with the conclusion reached by the enquiry officer for the reasons given in the inquiry report or he may offer additional reasons in support of the finding by the enquiry officer in that situation unless the disciplinary authority gives specific reasons in the show cause on the basis of which the findings of the inquiry officer in that behalf is based, it would be difficult for the delinquent to satisfactorily give reasons to persuade the disciplinary authority to agree with the conclusions reached by the Inquiry Officer. In the absence of any ground or reasons in the show cause notice it amounts to an empty formality which would cause grave prejudice to the delinquent officer and would result in injustice to him. The mere fact that in the final order some reasons have been given to disagree with the conclusions reached by the disciplinary authority cannot cure the defect. But on the facts in this case, the only charge which was found to have been accepted is that the appellant had used abusive language on the superior authority. Since the disciplinary authority has said that it has agreed partly to the charge, the provisional conclusion reached by the disciplinary authority in that behalf even in the show cause notice cannot be said to be vague. Therefore we do not any justification to hold that the show cause notice is vitiated by an error of law on the facts in this case.

Admittedly in the instant case no such show cause notice was issued at all before passing the orders imposing the punishment. Hence I have no hesitation in holding that disciplinary authority had not acted in accordance with law. Consequently the punishment passed by them is bad in law. Accordingly my award is that punishment of the concerned workman by way of reversion from AG-I to AG-II is bad in law as such he will be entitled for reinstatement at the post of AG-II alongwith difference of back wages.

Dated : 17-11-1998

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 1 दिसम्बर, 1998

कां.प्रा.० 2726.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार उक्त सी० एल० के प्रबन्धन के संबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण मुम्बई नं० 1 के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 30/11/98 को प्राप्त हुआ था।

[सं० एल.-22012/17/97 आई.प्रा. (सी-II)]

वी० के० राजन, उक्त अधिकारी

New Delhi, the 1st December, 1998

S.O. 2726.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Mumbai No. 1 as shown in the Annexure, in the industrial dispute between the employers in relation to the management of W. C. Ltd. and their workman, which was received by the Central Government on the 30-11-98.

[No. L-20012/17/97-IR(C-II)]

V. K. RAJAN, Desk Officer

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL NO. 1, MUMBAI

Present :

Shri Justice C. V. Govardhan, Presiding Officer.  
REFERENCE NO. CGIT 7 OF 1998

Parties :

Employers in relation to the management of  
WC Ltd., Chandrapur.

AND

Their workmen

Appearance :

For the Management : Shri B. N. Prasad,  
Advocate.

For the Workman : No appearance.

Mumbai, dated the 10th day of November, 1998

## AWARD

Shri B. N. Prasad, Advocate present for the management. The Union is absent inspite of notice which was sent on 29th September, 1998 for today. Perused the office report which shows that the matter has been adjourned on 07-7-1998, 22-7-1998, 8-9-1998 and 28-9-1998 but the union never present nor filed statement of claim before this Tribunal. Hence, it appears that the workman is not interested in prosecuting the reference.

There is no material before me on basis of which the dispute referred to this Tribunal could be adjudicated in form of the workman. Hence, no dispute award is passed.

C. V. GOVARDHAN, Presiding Officer

नई दिल्ली, 2 दिसम्बर, 1998

का०अ० 2727.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ई० सी० एल० के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनवधि में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानकता के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-12-98 को प्राप्त हुआ था।

[सं० एस्-19012/30/83 डी. IV (बी)]

वी० के० राजन, डेस्क अधिकारी

New Delhi, the 2nd December, 1998

S.O. 2727.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. E.C. Ltd., and their workman, which was received by the Central Government on 1-12-98.

[No. L-19012/30/83-D-IV (B)]

V. K. RAJAN, Desk Officer

## ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
AT CALCUTTA

Reference No. 9 of 1984

PARTIES :

Employers in relation to the management of Satgram  
Colliery, Messrs Eastern Coalfields Limited.

AND

Their workmen

PRESENT :

Mr. Justice A. K. Chakravarty, Presiding Officer

APPEARANCE :

On behalf of Management.—Mr. Banerjee, Advocate.

On behalf of Workmen.—Mr. G. Chakraborty, Advocate.

STATE : West Bengal.

INDUSTRY : Coal

## AWARD

By Order No. L-19012/30/83-D-IV (B) dated 19th March, 1984 the Central Government in exercise of its powers under section 10(1)(d) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Satgram Colliery, P.O. Devehandnagar, District Burdwan (WB) in dismissing Shri Misri Yadav, Mason Mazdoor with effect from 14-4-82 is justified? If not, what relief the workman concerned is entitled to?"

2. The instant reference has arisen at the instance of Koyala Mazdoor Congress (HMS) (In short the union) for dismissal of Misri Yadav, Mason Mazdoor from service by the management of Satgram Colliery of M/s. Eastern Coalfields Ltd. (in short the management) on 14-4-1982.

3. Union's case, in short is that the concerned workman Shri Misri Yadav was working as a Mason Mazdoor under the management for a long time Shri P. K. Mazumder, Assistant Manager of the Colliery went to his place of work, abused him, assaulted him and driven him out of the mine on 2-11-1981 at about 12.30 P.M. On 2-11-1981 the concerned workman was directed to perform the job of a mason which was not his duty alongwith 2 others without the presence of any Mining Sirdar. The place of work where he was directed to do the work was not only hot and dangerous but also filled with night soils. Shri Mazumder went there and without any enquiry abused him and assaulted him and drove him out of the mine. A chargesheet was accordingly issued against him and on enquiry he was found guilty. A police case was also started against him and he was found not guilty. The management having illegally dismissed the workman from service without any reason, the union has prayed for his reinstatement with back wages.

4. The management in its written statement has alleged that on 2-11-1981 Misri Yadav the concerned workman alongwith two others were engaged underground in the important work of sealing isolation stoppings. They refused to do the work allotted to them on flimsy ground and persisted in refusing to do the work inspite of explanation of the urgency of the work by Shri P. M. Banerjee, Assistant

Manager and thereafter by Shri P. K. Mazumder, Assistant Manager. The concerned workman along with others thereafter abused and threatened Shri Mazumder and assaulted him inflicting injuries on him. They also left the mine at about 12.40 P.M. that is much before the time. In fact, Shri Mazumder was assaulted on the surface for which the workers were waiting for him. A charge sheet accordingly was issued against the concerned workman along with two others on 3-11-1981 and they were placed under suspension. They submitted their explanation making counter allegations of assault on them by Shri Mazumder. (As the explanation was not found satisfactory, a departmental enquiry was ordered. The Enquiry Officer conducted the enquiry with due regard to the principles of natural justice. The concerned workmen were subsequently found guilty of both the charges of assault and leaving of the place of work. They were accordingly dismissed from service by the order of the General Manager dated 10-4-1982. Management accordingly prayed for upholding the order of dismissal of the concerned workman.

5. The union, filed a rejoinder repeating its allegations in the written statement.

6. The case has a chequered history. Apart from the present reference in respect of Misri Yadav, another reference was made by the Central Govt. in respect of Ram Raj Yadav. Both the references were heard analogously upto the stage of validity of the enquiry proceeding. This Tribunal thereafter came to the conclusion that the enquiry proceeding was illegal and invalid. This Tribunal, thereafter, separated the two cases and passed order for disposal of these two cases separately. Reference No. 5 of 84 was finally disposed of by this Tribunal where lesser punishment was given to Ram Raj Yadav. It was submitted that in respect of other workman Shantu Roy another reference was made by the Central Government and it was stated that the finding in respect of that case is pending for disposal in the Hon'ble High Court.

7. After the enquiry proceeding was found to be improper and invalid, a fresh opportunity was given to the parties to adduce evidence a fresh to prove their respective cases. In terms of that order MW-2, Shri P. K. Mazumder was allowed to be cross-examined further and MW-3, Shri S. D. Singh was examined by the management. The workman also examined WW-2 Biswanath Ahir and WW-3 Misri Yadav the concerned workman. No fresh documentary evidence was produced from either side.

8. Before proceeding to discuss the evidence on record it is to be noted that the concerned workman was charged for commission of two offences, namely, (i) Assault of the Assistant Manager, P. K. Mazumder on 2-11-1981 and (ii) Leaving of the place of work unauthorisedly before time. In so far as the alleged assault of P. K. Mazumder by the concerned workman and his co-workers. Mr. P. Banerjee, learned Advocate appearing for the management, frankly conceded that there is no documentary evidence in support of the alleged occurrence. Mr. P. K. Mazumder in his evidence stated that no FIR was lodged in the matter. No office record was also produced to show that any written complaint was lodged in the office by Shri Mazumder after the alleged occurrence. Mr. Mazumder also stated that as per request of the General Manager he went to the hospital but no medical report was produced before the Tribunal. His evidence that it was produced before the Enquiry Officer but it was lost therefrom cannot be believed. It further appears from the evidence of Mr. Mazumder that the place where he was assaulted was on the surface and the assault took place in presence of Shri S. D. Singh, Safety Officer and Shri P. M. Banerjee, Assistant Manager. Shri P. M. Banerjee is stated to have died in the mean time. Shri S. D. Singh the Security Officer of Satgram Colliery was examined as MW-3 in this case. He stated that neither Shri Mazumder, nor Shri Banerjee reported to him anything about the incident which occurred underground inside the mine. He further stated that the three workmen became furious on seeing them coming from underground, but they were prevented from assaulting Shri Mazumder by him and Mr. Banerjee. In his cross-examination, however, MW-3, S. D. Singh clearly stated that he had not seen any of these workmen assaulting

either Shri Mazumder or Shri Banerjee either underground or overground at any point of time. Shri Banerjee also did not make any complaint about any assault on him. This witness of the management thus having denied instead of corroborating the story of the assault as made out by Shri P. K. Mazumder, the charge of assault of Shri P. K. Mazumder by the concerned workman appears to be baseless.

9. In this connection, I am also to refer the evidence of WW-2, Biswanath Ahir who was working as a Security Guard on 2-11-1981. His duty hours was from 8 A.M. to 4 P.M. and he stated that no incident took place before him. Attempt was made on the part of the management to be little his evidence by stating that he had no paper on show that he was on duty on that date. Such inability on the part of this witness shall not lessen the value of his evidence as it was the duty of the management to show from the attendance register maintained by it that he was not present on that date. WW-3, Misri Yadav stated in his evidence that he made complaint to Shri P. K. Mazumder inside the mine that the place where he was asked to work was very hot and emitting four smell but Shri Mazumder instead of acceding to their demand pushed him and assaulted him causing injury on his shoulder and breaking of cap lamp. He denied that he or any other workman assaulted Shri Mazumder on that day either inside or outside the mine.

10. The entire all the evidence in support of the alleged assault of Shri P. K. Mazumder on 2-11-1981. The nature of such evidence being totally insufficient to prove the alleged offence of assault by the concerned workman that I am to hold that the management has hopelessly failed to prove the first of its charge against him. The workman, accordingly is not liable to get any punishment on that account.

11. Regarding the second charge, namely, leaving of the place of work before the end of the duty hours, there is clear evidence of the workman on record that on 2-11-1981 his duty hours was from 8 A.M. to 4 P.M. It further appears from his cross-examination that though his duty hours was from 8 A.M. to 4 P.M. inside the mine, still then, he along with others came out of the mine at 11.30 A.M./12 noon and did not go inside the mine on that date. In explanation it was sought to be stated that the place where he was directed to perform duties was very hot and emitting foul smell and also that he was not in a position to work inside the mine as he sustained injury. Such explanation seems to be extremely weak. There is no other evidence excepting his own that he sustained any injury on that date. It is also not believable that he should be assaulted by any officer of the mine. In the result, the charge of leaving the work without permission or sufficient reason has been well established and the concerned workman is liable to be punished for commission of the said offence.

12. It appears from the record that the disciplinary authority imposed punishment of dismissal from service upon the concerned workman on the basis of the Enquiry Officer's report wherein he was found guilty in respect of both the charges levelled against him. Obviously, threatening, abusing, assaulting of the superior officers being more serious in nature that might have prompted the disciplinary authority to pass the extreme punishment of dismissal from service but, as stated above, that charge was not proved. It is inconceivable that absence from duty for any fraction of working hours can call for the extreme punishment of dismissal from service. That will not only be shocking to the conscience but also a worst case of unfair labour practice. In the said circumstances I believe that reduction of two increments will be sufficient for the offence committed by him.

13. In view of what goes above, it is clear that the action of the management of Satgram Colliery of M/s. Eastern Coalfields Limited in dismissing the concerned workman from service with effect from 14-4-1982 was not justified. The workman accordingly shall be entitled to his reinstatement forthwith in his service with half of the back wages from the date of his dismissal till his reinstatement.

ment. The management shall also be at liberty to fix his pay by reduction of two increments by way of punishment.

This is my Award.

A. K. CHAKRAVARTY, Presiding Officer

Dated, Calcutta,

the 20th November, 1998.

नई दिल्ली, 2 दिसम्बर, 1998

कां.मां. 2728.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ई. सी. एल. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-12-98 को प्राप्त हुआ था।

[सं. एल.-22012/465/95-आई.प्रार. (सी-II)  
वी. के. राजन, डेस्क अधिकारी

New Delhi, the 2nd December, 1998

S.O. 2728.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. E. C. Ltd. and their workman, which was received by the Central Government on the 1-12-98.

[No. L-22012/465/95-IR(C-II)]  
V. K. RAJAN, Desk Officer  
ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL  
TRIBUNAL, ASANSOL

Reference No. 41 of 1996

Present :

Shri R. S. Mishra, Presiding Officer.

Parties :

Employers in relation to the management of  
Khandra Colliery of M/s. E.C. Ltd.

AND

Their Workman

Appearances :

For the Employer—Sri P. K. Banerjee,  
Advocate.

For the Workman—None.

INDUSTRY : Coal STATE : West Bengal

Dated the 17th November, 1998

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication by the Government of India, Ministry of

Labour's Order No. L-22012/465/95-IR (C-II) dated 26-9-96.

"Whether the management of Khandra Colliery, Bankola Area of M/s. ECL is justified in denial of proper fitment of S/Shri Narayan Das and Balram Dutta, Electrician w.e.f. 15-3-90. If not, what relief the workmen are entitled to?"

2. The union neither appears nor takes any step. Apparently no more interested in the dispute.

3. Hence 'No Dispute Award' is passed.

R. S. MISHRA, Presiding Officer

नई दिल्ली, 2 दिसम्बर, 1998

का. मा. 2729.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ई. सी. एल. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-12-98 को प्राप्त हुआ था।

[सं. एल.-22012/484/96-आई प्रार (सी-II)]  
वी. के. राजन, डेस्क अधिकारी

New Delhi, the 2nd December, 1998

S.O. 2729.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. E. C. Ltd. and their workman, which was received by the Central Government on the 1-12-98.

[No. L-22012/484/96-IR(C-II)]  
V. K. RAJAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL  
TRIBUNAL, ASANSOL

REFERENCE NO. 9 OF 1998

Present :

Shri R. S. Mishra, Presiding Officer.

Parties :

Employers in relation to the management of  
Kumardihi 'A' Colliery of M/s. E. C. Ltd.

AND

Their Workman

Appearances :

For the Employer.—None.

For the Workman.—None.

INDUSTRY : Coal STATE : West Bengal

Dated the 16th November, 1998



**AWARD**

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication vide Govt. of India, Ministry of Labour's Order No. L-22012/484/96-IR(C-II) dated 20-5-98.

"Whether the action of the management of Kumardihi A Colliery under Bankola Area of M/s. ECL is justified in dismissing Sh. Bindeshwari Singh, Peon w.c.f. 14-4-90? If not what relief the workman is entitled?"

2. The union neither appears nor takes any step in spite of service of registered notices.

3. Hence 'No Dispute Award' is passed.

R. S. MISHRA, Presiding Officer

नई दिल्ली, 2 दिसम्बर, 1998

का. अ. 2730.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ई. सी. एल. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-12-98 को प्राप्त हुआ था।

[सं. एल.-22012/10/97-आई आर (सी-II)]  
वी. के. राजन, डेस्क अधिकारी

New Delhi, the 2nd December, 1998

S.O. 2730.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. E.C. Ltd. and their workman, which was received by the Central Government on 1-12-98.

[No. L-22012/10/97-IR(C-II)]  
V. K. RAJAN, Desk Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL, ASANSOL**

**REFERENCE NO. 4 OF 1998**

**Present :**

Shri R. S. Mishra, Presiding Officer.

**Parties :**

Employers in relation to the management of Belbaid Colliery of M/s. E. C. Ltd.

**AND**

**Their Workman**

**Appearances :**

For the Employer.—None.

For the Workman.—None.

**INDUSTRY : Coal**                      **STATE : West Bengal**

Dated the 16th November, 1998

**AWARD**

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication vide Government of India, Ministry of Labour's Order No. L-22012/10/97-IR(C-II) dated 5-3-98.

"Whether the action of the management of Belbaid Colliery of Kunustoria Area of ECL in dismissing of Shri Karu Bhuiya, Under Ground Loader from the services is justified? If not, to what relief the workman is entitled to?"

2. The union neither appears nor takes any step in spite of service of registered notice.

3. Hence 'No dispute Award' is passed.

R. S. MISHRA, Presiding Officer

नई दिल्ली, 2 दिसम्बर, 1998

का. अ. 2731.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ई. सी. एल. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-12-98 को प्राप्त हुआ था।

[सं. एल.-22012/98/95-आई आर (सी-II)]  
वी. के. राजन, डेस्क अधिकारी

New Delhi, the 2nd December, 1998

S.O. 2731.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. E. C. Ltd. and their workman, which was received by the Central Government on the 1-12-98.

[No. L-22012/98/95-IR(C-II)]  
V. K. RAJAN, Desk Officer

## ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL  
TRIBUNAL, ASANSOL

REFERENCE NO. 53 OF 1995

Present :

Shri R. S. Mishra, Presiding Officer.

Parties :

Employers in relation to the management of  
Kumardihi 'B' Colliery of M/s. E. C. Ltd.

AND

Their Workman

Appearances :

For the Employer.--Sri P. K. Das, Advocate.

For the Workman.--None.

INDUSTRY : Coal STATE : West Bengal

Dated the 17th November, 1998

## AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication vide Government of India, Ministry of Labour's Order No. L-22012/98/95-IR(C-II) dated 27-9-95.

"Whether the action of the management in placing Sh. Surajnath Rajbhar, Multi Job worker of mid point of category V in initial of Category V as Driller and thereby causing loss of wages is justified. If not what relief the workman is entitled to?"

2. The union neither appears nor takes any step. It seems they are no more interested in the dispute.

3. Hence 'No Dispute Award' is passed.

R. S. MISHRA, Presiding Officer

नई दिल्ली, 2 दिसम्बर, 1998

का. आ. 2732 :--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ई. सी. एल. के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल के पंचाट को प्रकाशित करता है, जो केन्द्रीय सरकार को 1-12-98 को प्राप्त हुआ था।

[म. एल.-22012/86/96-आई आर (सी-II)]

वी. के. राजन, डेस्क अधिकारी

New Delhi, the 2nd December, 1998

S.O. 2732.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute

between the employers in relation to the management of M/s. E.C. Ltd., and their workman, which was received by the Central Government on the 1-12-98.

[No. L-22012/86/96-IR(C-II)]

V. K. RAJAN, Desk Officer

## ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL  
TRIBUNAL, ASANSOL

REFERENCE NO. 26 OF 1997

Present :

Shri R. S. Mishra, Presiding Officer.

Parties :

Employers in relation to the management of  
J. K. Nagar (R) Colliery of M/s. E. C. Ltd.

AND

Their Workman

Appearances :

For the Employer.--None.

For the Workman.--None.

INDUSTRY : Coal STATE : West Bengal

Dated the 16th November, 1998

## AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication vide Ministry of Labour's Order No. L-22012/86/96-IR (C-II) dated 20-5-97.

"Whether the action of the management of J.K. Nagar (R) Colliery of ECL under Satgram Area of ECL in denying wage protection and thereby reducing the basic wages of Sh. Kanai Gope and 8 others on their regularisation in time rate scale of NCWA-IV is legal and justified? If not, to what relief the workman are entitled?"

2. No step is taken by the union in spite of service of registered notice as reflected by postal A/D card.

3. Hence 'No Dispute Award' is passed.

R. S. MISHRA, Presiding Officer

नई दिल्ली, 2 दिसम्बर, 1998

का. आ. 2733 :--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ई. सी. एल. के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-12-98 को प्राप्त हुआ था।

[म. एल.-22012/87/96-आई आर (सी-II)]

वी. के. राजन, डेस्क अधिकारी

New Delhi, the 2nd December, 1998

S.O. 2733.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. E. C. Ltd. and their workman, which was received by the Central Government on the 1-12-98.

[No. L-22012/87/96-IR (C-II)]  
V. K. RAJAN, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL  
TRIBUNAL, ASANSOL

REFERENCE NO. 21 OF 1997

Present :

Shri R. S. Mishra, Presiding Officer.

Parties :

Employers in relation to the management of J.K.  
Nagar Colliery of M/s. E. C. Ltd.

AND

Their Workman

Appearances :

For the Employer.—None.

For the Workman.—None.

INDUSTRY : Coal                      STATE : West Bengal

#### AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication vide Government of India, Ministry of Labour's Order No. L-22012/87/96-IR (C-II) dated 14-3-97.

"Whether the action of the management of J.K. Nagar Colliery of ECL under Saigram Area of ECL in denying incremental benefit to Sh. Shauminoy Gorai and also fixing his pay (on promotion) in clerical Grade-III instead of clerical grade II is legal and justified? If not, to what relief the concerned workman is entitled?"

2. The union neither appears nor takes any step in spite of service of registered notice.

3. Hence 'No Dispute Award' is passed.

R. S. MISHRA, Presiding Officer

नई दिल्ली, 3 दिसम्बर, 1998

का. आ. 2734.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रादेशीय खाद्य निगम के प्रबन्धन के संबंध में नियोक्तों और उनके कर्मियों के बीच, सम्बन्ध में

निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण धनबाद नं. 2 के पंचाट को प्रकाशित करती है; जो केन्द्रीय सरकार को 1-12-98 को प्राप्त हुआ था।

[स. एन.-22012/97/96-आई आर (सी-II)]  
वी. के. राजन, डेस्क अधिकारी

New Delhi, the 3rd December, 1998

S.O. 2734.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Dhanbad No. 2 as shown in the Annexure, in the industrial dispute between the employers in relation to the management of F.C.I. and their workman, which was received by the Central Government on the 1-12-98.

[No. L-22012/97/96-IR (C-II)]  
V. K. RAJAN, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL (NO. 2) AT  
DHANBAD

PRESENT :

Shri B. B. Chatterjee, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

REFERENCE NO. 64 OF 1997

PARTIES :

Employers in relation to the management of  
FCI, Patna and their workman.

APPEARANCES :

On behalf of the workmen—Shri V. Kumar,  
Secretary (Welfare) FCI Executive Staff  
Union.

On behalf of the employers—Shri A. Thakur,  
Dy. Manager, FCI.

STATE : Bihar.

INDUSTRY : Food

Dhanbad, the 23rd November, 1998

#### AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-22012/97/96-I.R. C-II dated 20-5-97.

#### SCHEDULE

"Whether the action of the management of FCI, Patna in not granting seniority of regular typist w.e.f. 15-3-83 to Sh. Manoj Kumar is legal and justified? If not, to what relief is the concerned workman entitled?"

2. The concerned workman Manoj Kumar made out a case in his W.S. to the effect that he was

appointed as casual typist by the Senior Regional Manager, Patna on 15-3-83 and started working as such but was retrenched with effect from 24-4-84 for which an industrial dispute was raised by the Union challenging the legality etc. of that retrenchment. The dispute was referred to this Tribunal for adjudication and an award was passed by this Tribunal holding that the retrenchment of the concerned workman was illegal and as such the concerned workman was directed to be reinstated by the management of FCI with full back wages and other benefits with effect from 24-4-84 along with continuity of service. The concerned workman was thus reinstated in his job with continuity of service and thereafter another dispute was raised for regularisation of his services and ultimately as per Award dated 13-11-92 his service was regularised with effect from 9-6-89 i.e. from the date of earlier award with difference of wages.

3. The concerned workman has been performing his duties continuously since 15-3-83 and as such his seniority should have been fixed with effect from that date and he should have been allowed fixation of pay with effect from that date but the management of FCI for the reasons best known to them denied the seniority and fixation of pay inspite of such award and request of the concerned workman. The concerned workman was entitled to the consequential benefits and full pay and as such his seniority and fixation of pay should have been made with effect from 15-3-83 which the management failed to consider inspite of repeated request for which an industrial dispute has been raised which ultimately gave rise to the present reference. The concerned workman has claimed that if he is not given due seniority with effect from 15-3-83 and if his pay is not fixed from that date he will suffer not only monetary loss but such omission will also tell adversely on his promotional prospect and because of that the Typists who were appointed subsequently in the year 1984-1989 are getting much higher pay than the concerned workman. The claim of the concerned workman is that as per judgement of Hon'ble Court continuous temporary service must be taken into account for the purpose of fixing seniority and as such he is entitled to fixation of seniority with effect from 15-3-83 and thereby to get the benefit of pay with effect from that date. The action of the management in not giving seniority and not making fixation of pay in the time scale of FCI with difference of pay with effect from 15-3-83 are, therefore, illegal and unjustified as well as against the award passed previously. This concerned workman has, therefore, prayed for an Award in his favour holding that the action of the management of FCI in not granting him seniority as regular Typist with effect from 15-3-83 is illegal and unjustified and for a direction to the management to fix his seniority with effect from 15-3-83 as regular Typist with further direction to the management to pay him difference of wages with effect from that date.

4. The management of FCI also filed W.S.-cum-rejoinder wherein the management has challenged the maintainability of the present reference, and also made out a case to the effect that the concerned workman Shri Manoj Kumar was not in fact emp-

loyed as regular typist with effect from 15-3-83 and as such the question of granting his seniority as regular typist with effect from that date does not arise in as much as he was appointed as casual typist with effect from 15-3-83 & retrenched with effect 24-4-84 for various reasons including that he was not suitable to work as Typist and an industrial dispute was, however, raised over his termination of service with effect from 24-4-84 alleging non-compliance of the provision of Section 25F of the I.D. Act, 1947. The termination of the service of a particular workman amounts to retrenchment and non-compliance of section 25F of the I.D. Act makes such termination illegal and void. In the case the management committed an error in not complying with the provision of Section 25F of the I.D. Act, 1947 for which the Tribunal passed an Award in his favour in Ref. No. 6/89 declaring that the concerned workman was entitled to continue in his original job as if there was no retrenchment and consequently he was entitled to full wages and benefit which he was getting immediately before retrenchment. After publication of the Award in the Gazette of India the concerned workman was reinstated as casual typist by order dt. 24-4-89 and the concerned workman joined as casual typist in terms of the Award of the Tribunal. Thereafter the concerned workman demanded regularisation after such reinstatement as casual typist another industrial dispute was raised which was referred to Tribunal No. 1, Dhanbad for adjudication which was registered as Ref. 28/91. The dispute was decided by the Tribunal No. 1, Dhanbad holding that the concerned workman was entitled to be regularised with effect from 9-8-89. The Award was published in the Gazette of India on 8-12-89 and thereafter the management issued an order putting the concerned workman on the roll of the regular typist with effect from 9-6-89. The concerned workman was also paid the differences of wages and other benefits from 9-6-89 till the date of the implementation of the Award as per direction of the Tribunal and as such the matter has already been finalised to the effect that the concerned workman was to be treated as casual typist with effect from 15-3-83 to 9-6-89. Naturally seniority of the concerned workman as regular typist was counted from 9-6-89 and not from 15-3-83 the date of his initial appointment as casual typist. The Award passed by this Tribunal and Tribunal No. 1 have not been terminated by the sponsoring union and the management have also accepted the award inspite of several reservation and implemented the same and in the face of the existence of those two award there is practically no scope for demanding regularisation of the service of the concerned workman with effect from 15-3-83 and unless the concerned workman is regularised with effect from 15-3-83 as permanent typist the question of deciding his seniority was effect from that date also cannot arise. The attempt of the concerned workman by raising the present dispute is only to mislead the Tribunal and the Government by getting an Award in his favour for regularisation of his services with effect from 15-3-83 and thereby to get seniority as well as other benefits with effect from that date. But since the matter has already been settled and finalised by two award by this Tribunal and Tribunal No. 1, Dhanbad the present reference is in fact not at all maintainable. The concerned workman is, therefore, not entitled to any relief.

5. In addition to the case made out in the W.S. the management have also made parawise comments in their rejoinder and in doing so the management abstained from making any comment in respect of para-1 of the W.S. of the workman on the ground that those are matter of record the correct position of which would be explained at the time of hearing. In respect of contents of para-2 of the W.S. the say of the management is that those are not fully correct, as the concerned workman was appointed as casual typist with effect from 15-3-83 and his service was terminated with effect from 24-7-84 he started working with effect from 24-8-89 after reinstatement as casual typist by order dt. 24-8-89. The actual service rendered by the concerned workman continuously was from 24-8-89 although he was paid his wages as casual typist for the period from 15-3-83 to 23-8-89. The claim of the concerned workman that he was working as casual typist continuously from 15-3-83 without any interruption is thus baseless. In respect of para-3 of the contents W.S. the claim of the management is that the same are not fully correct, although the management admitted that the sponsoring union raised an industrial dispute over the retrenchment of the workman and that the Tribunal passed an Award for his reinstatement with back wages with effect from 24-4-84 the concerned workman was reinstated in his original post of casual typist and he was paid the wages and other benefits he was drawing immediate before his retrenchment on 24-4-84.

6. In respect of contents of para-4 of the W.S. the say of the management is that those being matters of record no specific comments are put forward although the concerned workman was regularised with effect from 9-6-89 and he was put on the roll of the regular typist from that date as per award passed by Tribunal No. 1, Dhanbad. The contents of para-5 of the W.S. as per say of the management are incorrect and the management denied of the same. So far claim of continuous service with effect from 15-3-83 etc. are concerned the management also challenged the correctness etc of the contents of para-6 of the W.S. of the workman by representing repeatedly that the concerned workman was put on his original post of casual typist and was granted consequential benefits including wages as payable to a casual typist according to the conditions of service as existed before his retrenchment on 24-4-84. The matter was adjudicated again by Tribunal No. 1, Dhanbad and the services of the concerned workman was regularised as regular typist with effect from 9-6-89 for which he was put on the roll of the regular typist with effect from that date i.e. from 9-6-89. The management have denied the contents of para-7 of the W.S. by claiming those to be incorrect. The say of the management is that the service of the concerned workman was terminated as he was not suitable for his regular absorption. He got back his job in the year 1989 by virtue of the Award passed in his favour by this Tribunal and that too for non-compliance of Section 25F of the I.D. Act. Had it been so the management paid one month's notice pay in lieu of notice, of 15 days wages there would have been no scope of getting an Award from this Tribunal by the concerned workman for his reinstatement but at the same was not done his reinstatement in the year 1989 though with full back wages was as casual typist. The continuity of

service if any was of casual typist and not of a regular typist. The concerned workman was granted the relief of regularisation by putting him on the roll of regular typist only with effect from 9-6-89 though he was not competent and was not even capable of typist 40 W.P.M as required for holding such post and in view of the matter also simply because he continued in his post as casual typist as per terms of the Award he cannot claim his seniority with effect from the date of his initial appointment on 15-3-83 as he was brought to the roll of the regular typist as per direction passed by the Tribunal No. 1, Dhanbad in the year 1989. The management have therefore once again challenged the claim of the concerned workman as not legal and justified. The management have denied contents of para-8, 9, 10 of the W.S. as incorrect. The action of the management in not giving seniority and pay fixation to the concerned workman as regular typist with effect from 15-3-83 was not at all illegal or unjustified or even against the spirit of the Award passed in favour of the concerned workman. Naturally the management have prayed for an Award holding that the concerned workman is not entitled to any relief.

7. The concerned workman by filing a rejoinder has claimed that the present reference is legal, maintainable and as such the statement made in para-2 of the W.S. of the management is not at all correct. The concerned workman has also claimed that continuity of service was allowed by this Tribunal in the Award passed in Ref. No. 6/89 for which he is entitled to get seniority with effect from the date of initial appointment on 15-3-83 and has thereby claimed that the contents of para-3 to 6 are not correct. Similarly has concerned workman has also claimed that he was granted wages, all other benefits including continuity of service in the Award passed in Ref. 6/89 and Ref. 23/1991 for which his seniority should be decided along with the difference of wages with effect from 15-3-83 the date of his initial appointment although he was regularised with effect from 9-6-89 but in view of the decision of the Hon'ble Supreme Court his temporary service from 15-3-83 prior to the date of confirmation or regularisation is to be taken into consideration for the purpose of deciding his seniority but the management in spite of repeated request has not considered the claim of the concerned workman which has given rise to the present reference as because the juniors appointed subsequently by the management will not only get the promotion earlier than the concerned workman but in fact they are drawing higher wages than him although there is no distinction in the industrial law between the permanent and temporary workman and on these ground also the seniority of the concerned workman has to be counted from the date of his initial appointment and not from the date of his confirmation or regularisation. In respect of para-7 to 10 the say of the concerned workman is that those are not at all correct. The contention of the management regarding grant of seniority from the date of regularisation ignoring the terms of the Award is not only illegal but it is also against the judgement of the Hon'ble Supreme Court and in respect of the statement of the management in other paras the say of the workman are that those are misleading and liable to be rejected and in this way the concerned workman has once

again prayed for granting him the relief by an Award in terms of the prayer in his W.S.

5. The point for decision is whether the concerned workman is entitled to an order in the form of direction of the management or FCI Patna in counting his service with effect from 15-3-83 for the purpose of deciding his seniority and for payment of difference of wages.

#### DECISIONS AND REASONS

6. The parties abstained from adducing any oral evidence in support of their respective case but filed certain documents. In doing so the concerned workman has filed photo copies of the award dt. 9-6-89 passed by this Tribunal in Ref. No. 6/89 and Award dt. 13-11-92 passed by CGIT No. 1, Dhanbad in Ref. No. 28/91. On the other hand the management also filed certain document such as Office Order dt. 15-3-83 vide Ext. M-1, Office order dt. 24-4-89 vide Ext. M-2 and application dt. 3-11-87 vide Ext. M-3, a notice issued from the ALC(C) dt. 23-12-83 vide Ext. M-4, another letter dt. 4-1-84 vide Ext. M-5 letter dt. 4-8-84 vide Ext. M-6, the award dt. 9-6-89 vide Ext. M-7, Office order dt. 24-4-89 vide Ext. M-8, award passed by Tribunal No. 1, Dhanbad dt. 14-4-92 vide Ext. M-9 and office order dt. 15-3-93 vide Ext. M-10. The management submitted written argument while oral submission was advanced on the side of the workman during hearing of argument. Admittedly the concerned workman was appointed by the management as Casual Typist I on 15-3-1983 and he started serving as such under the management from that date. There is no dispute that the management terminated the services of the concerned workman by Office order dt. 24-4-1989 for which an industrial dispute was raised which was referred to this Tribunal for adjudication and an award in favour of the concerned workman was passed declaring the termination of services/retranchment of the concerned workman as illegal for which the concerned workman was reinstated. Thus again there is no dispute that another award was passed in Ref. No. 28/91 by Tribunal No. 1, Dhanbad directing the management for regularisation of the services of the concerned workman with effect from 9-6-89 the services of the concerned workman was accordingly regularised by the management. It was submitted on the side of the workman that in view of the spirit of these two awards when continuity, back wages, regularisation of the services etc. were ordered by this Tribunal and Tribunal No. 1, Dhanbad his seniority should be granted not from the date of regularisation of the services in obedience of the direction passed in Ref. No. 28/91 but with effect from the date of his initial appointment i.e. from 15-3-83 but as the management failed to do so it is a fit case where relief to the concerned workman in terms of his prayer in the W.S. in the form of direction to the management for counting his services from 15-3-83 the date of his initial appointment for the purpose of deciding the question of his seniority should be issued. The management by submitting a written argument have made an attempt to make out a case that it is true that by the Award passed by this Tribunal in Ref. No. 6/89 the concerned workman was reinstated in service and his termination from service by way of retranchment was

treated as illegal and it was observed that as if there was no retranchment of the concerned workman for which he was reinstated. He was also allowed back wages as per direction of this Tribunal although the management did not obtain any service from him during the period from the date of his retranchment till the date of his reinstatement in service. Yet since the concerned workman was appointed on 15-3-83 on ad-hoc basis as a casual typist on consolidated amount of pay over which there is no dispute and as his reinstatement in service after the award passed in Ref. 6/89 was in the same capacity the question of counting his seniority with effect from the date of his initial appointment from 15-3-83 can never arise, and the period of his service is required to be counted only with effect from the date of his regularisation as per direction passed in the Award in Ref. No. 28/91 i.e. w.e.f. 9-6-89 as the concerned workman was brought to the roll of the regular typist with effect from that date. In this connection, the management has relied upon a decision of Hon'ble Supreme Court reported in AIR 1990 Supreme Court page 1607 wherein Hon'ble Court was pleased to hold that under Article 311 of the Constitution where initial appointment is not made according to the rules and by following the procedure laid down by the rules although the appointee continued in the post uninterruptedly till the regularisation of his service in accordance with rule his seniority has to be counted from the date of confirmation provided the workman was appointed to a post according to rule. In the instant case the concerned workman was neither appointed according to rules nor against any substantive vacancy for the purpose of treating the period of his service immediate before his regularisation or confirmation as period of probation rather he was appointed on casual vacancy for which his service was terminated by the management by way of retranchment by office order of the management dt. 24-4-89. But as it is evident that the management in doing so has failed to comply with the provision of Section 25F of the I.D. Act, such retranchment order passed by the management was treated as illegal treating that the concerned workman was in service and in this way he was reinstated in the service by the management but in the self same capacity on casual basis on consolidated amount which means that even by way of reinstatement he was not brought to the regular roll of the typist under the management carrying certain time scale of pay. It was only after passing the Award by Tribunal No. 1, Dhanbad in Ref. No. 28/91 he was brought to the regular roll by allowing him time scale with effect from 9-6-89 as per direction of the Tribunal in that Award. In that view of the matter since the concerned workman was neither appointed against any substantive post treating the period of service from the beginning till the date of his regularisation as period of probation nor he was appointed in any cadre post or roll of the typist under the management with effect from the date of his initial appointment from 15-3-83 and as such simply because he started working under the management and by virtue of the Award passed by this Tribunal continuously immediate before his regularisation on 9-6-89 by virtue of the Award passed by Tribunal No. 1, Dhanbad yet as he was not appointed against any time scale or substantive vacancy or regular roll of typist under the manage-

ment I am unable to hold that for the purpose of deciding seniority his service has to be counted with effect from the date of his initial appointment on 15-3-83. In fact, his service for the purpose of deciding the question of seniority is to be counted with effect from 9-6-89 when he was regularised and was allowed the scale of a typist by the management. The inevitable result is that in view of my above discussion the concerned workman is not entitled to any order in the form of direction to the management for the purpose of counting the period of his service with effect from 15-3-83 the date on his initial appointment and he is not entitled to any relief in this reference. The reference is adjudicated accordingly.

This is my Award.

B. B. CHATTERJEE, Presiding Officer

नई दिल्ली, 3 दिसम्बर, 1998

का. आ. 2735.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई. सी. एल. के प्रबन्धन के सबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-12-98 को प्राप्त हुआ था।

[सं. एल.-22012/101/95-आई आर (सी-II)]

बी. के. राजन, डेस्क अधिकारी

New Delhi, the 3rd December, 1998

S.O. 2735.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of E. C. Ltd., and their workman, which was received by the Central Government on the 1-12-1998.

[No. L-22012/101/95-I.R. (C-II)]

V. K. RAJAN, Desk Officer.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL, ASANSOL.

REFERENCE NO. 63 OF 1995.

FROM :

Shri R. S. Mishra, Presiding Officer.

PARTIES :

Employers in relation to the management of  
Madhabpur Colliery of M/s. E. C. Ltd.

AND

Their Workman.

#### APPEARANCES :

For the Employer : Shri P. Banerjee, Advocate.  
For the Workman : None.

INDUSTRY : Coal.

STATE : West Bengal.

Dated, the 19th November, 1998.

#### AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication vide Government of India, Ministry of Labour's Order No. L-22012(101)/95-I.R. (C-II), dated 16-11-1995.

"Whether the action of the management of Madhabpur Colliery of Kajora Area of M/s. E.C.L. in denial of regularisation of Shri Mahendranath Singh as Time Keeper in clerical grade-II, w.c.f. 2-2-1987 instead of 17-12-1992 is justified? If not, what relief he entitled to?"

2. The union neither appears nor submits Written Statement in spite of sufficient adjournments. Apparently no more interested in the dispute.

3. Hence 'No Dispute Award' is passed.

R. S. MISHRA, Presiding Officer.

नई दिल्ली, 3 दिसम्बर, 1998

का. आ. 2736.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. ई. सी. एल. के प्रबन्धन के तहत नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-12-98 को प्राप्त हुआ था।

[सं. एल.-22012/189/89-आई आर (सी-II)]

बी. के. राजन, डेस्क अधिकारी

New Delhi, the 3rd December, 1998.

S.O. 2736.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S. E. C. Ltd., and their workman, which was received by the Central Government on the 1-12-1998.

[No. L-22012/189/89-I.R. (C-II)]

V. K. RAJAN, Desk Officer

## अनुबंध

केन्द्रीय औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर

म. प्र.

डी. एन. दीक्षित

पीठासीन अधिकारी

प्र. क्रं. सीजीआईटी/एलसी/आर/247/89

सचिव,

राष्ट्रीय कोयला खदान मजदूर संघ

(आईएनटीयूसी)

पो. चिरमिरी

जिला सरगुजा—497 773 (म. प्र.)

विरुद्ध

डिप्टी जनरल मैनेजर/सब ऐरिया मैनेजर,

डूमन हिल ग्रुप ऑफ माइन्स

पो. सोनावानी कालरी

जिला सरगुजा (म.प्र.) 497 557

... प्रार्थी

... प्रतिप्रार्थी

अवार्ड

दिनांकित : 19-11-1998

1. भारत सरकार, श्रम मंत्रालय, नई दिल्ली ने अपने आदेश संख्या एन-22012/189/89-आई. आर. (कोल-2) दिनांक 4-12-98 के द्वारा निम्नलिखित विवाद निराकरण हेतु इस अधिकरण को प्रेषित किया है:—

## अनुसूची

“Whether the action of the Management of Duman Hill Group of Mines of SECL in dismissing services of their workman Shri Bindeswari Singh S/o Shri Bhura Singh, is legal and justified? If not, to what relief the workman concerned is entitled?”

2. प्रबंधन के अनुसार श्रमिक बिन्देश्वरी सिंह, जनरल मजदूर श्रेणी—1 डूमन हिल कालरी में कार्यरत था दिनांक 19-4-87 को प्रातः 11.00 बजे श्री एस. के. सक्सेना, मैनेजर, एससीपीएच कंपनी के वाहन में जा रहे थे, ग्राम रोड पर श्रमिक ने बन्दूक से श्री सक्सेना पर गोली चलाई। श्री सक्सेना ने चिरमिरी थाने में उसी समय प्रथम सूचना-पत्र दर्ज कराया। बाद में श्री सक्सेना ने अपने उच्च अधिकारियों को घटना की लिखित सूचना दी। श्रमिक के विरुद्ध विभागीय जांच प्रारंभ की गई। श्रमिक ने अपराध करने से इंकार किया। जांचकर्ता अधिकारी ने श्रमिक को कदाचरण का दोषी पाया और उनकी रिपोर्ट पर सक्षम अधिकारी ने श्रमिक को दिनांक 22-1-88 को सेवामुक्ति का दण्ड दिया। प्रबंधन के अनुसार श्रमिक को दिया गया दण्ड कदाचरण के अनुरूप है।

3. श्रमिक के अनुसार उसने कोई कदाचरण नहीं किया तथा उसे अकारण ही फंसाया गया है। श्रमिक के अनुसार दाण्डिक प्रकरण में उसे दोषमुक्त किया गया है। इस कारण

विभागीय जांच में उसे दण्ड नहीं दिया जा सकता। विभागीय जांच के मनमाने तरीके से अनिमित्तताएं की गई हैं, जिसके फलस्वरूप श्रमिक को बचाव कम अवसर नहीं मिला। श्रमिक चाहता है कि उसकी सेवामुक्ति का आदेश निरस्त किया जाए तथा उसे पुनः 22-1-88 से सेवा में लेकर इस विनांक से अभी तक वेतन व भत्ता दिये जायें।

4. इस न्यायालय ने अपने आदेश दिनांक 16-3-92 के द्वारा यह पाया है कि प्रबंधन ने यह सिद्ध नहीं किया कि सक्षम अधिकारी ने अभियोगपत्र दिया था और उसी ने श्रमिक को सेवामुक्ति के आदेश दिये। ऐसी स्थिति में विभागीय जांच अवैध हो गई। विभागीय जांच टेक्नीकल ग्राउन्ड में अवैध हुई थी, इस कारण दोनों पक्षों को कदाचरण के संबंध में न्यायालय में साक्ष्य प्रस्तुत करने का अवसर दिया गया।

5. प्रबंधन ने श्री एस. के. सक्सेना और श्री अयोध्या प्रसाद के शपथ-पत्र इस न्यायालय में श्रमिक का कदाचरण सिद्ध करने के लिए प्रस्तुत किये। श्रमिक ने स्वयं का कथन कराया। दोनों शपथ-पत्रों पर श्रमिक के अभिभाषक ने प्रतिपरीक्षण किया है। श्री सक्सेना के शपथ-पत्र में यह सिद्ध हो गया कि दिनांक 19-4-87 को प्रातः 11.00 बजे ग्राम सड़क पर श्रमिक ने बन्दूक से उन पर गोली चलाई।

6. श्री अयोध्याप्रसाद ने अपने प्रतिपरीक्षण में यह कहा है कि उसे घटना के बारे में कोई ज्ञान नहीं है। इस प्रकार अयोध्या प्रसाद ने श्री सक्सेना के कथन की पुष्टि नहीं की।

7. श्रमिक ने अपने कथन में इस न्यायालय में कहा है कि उसने श्री सक्सेना से सामान्य रूप से बातचीत की थी। यह भी कहा है कि उसके पास एयर गन है। श्रमिक ने यह नहीं बताया कि उसे श्री सक्सेना क्यों फंसाने का प्रयास करेंगे।

8. श्रमिक के विरुद्ध अतिरिक्त सत्र न्यायाधीश, मनेन्द्र-गढ़ ने इसी घटना के सम्बन्ध में धारा 307 भारतीय दण्ड विधान का अपराध सिद्ध पाया और उसे 7 वर्ष के कठोर कारावास का दण्ड दिया। श्रमिक ने इसकी अपील उच्च न्यायालय में की। माननीय मध्य प्रदेश उच्च न्यायालय ने क्रिमिनल अपील क्रमांक 407/89 में श्रमिक को धारा 337 भारतीय दण्ड विधान के अपराध का दोषी पाया और धारा 360 दंड प्रक्रिया संहिता के अंतर्गत नेकचलनी की जमानत में रिहा किया।

9. माननीय मध्य प्रदेश उच्च न्यायालय ने श्रमिक को आरोप से दोषमुक्त नहीं किया है। श्री सक्सेना पर गोली चलाने का आरोप सिद्ध पाया। श्रमिक को नेकचलनी की जमानत पर छोड़ा है। श्रमिक को दोषमुक्त नहीं किया।

10. श्री सक्सेना श्रमिक के विरुद्ध क्यों बोलेंगे, इसका कोई कारण श्रमिक ने नहीं बताया। वर्तमान घटना के संबंध में स्वयं म. प्र. उच्च न्यायालय ने श्रमिक को आरोप का दोषी पाया है। श्री सक्सेना के कथन पर माननीय उच्च न्यायालय ने विश्वास किया है। मैं भी श्री सक्सेना के कथन



को विष्वसनीय मानता हूँ। प्रबंधन ने सिद्ध कर दिया कि श्रमिक ने श्री सक्सेना पर अकारण ही 19-4-87 को एयर गन से गोली चलाई और उन्हें घायल किया। श्रमिक ने कदाचरण किया है, यह प्रबंधन ने सिद्ध कर दिया।

11. श्रमिक ने कालरी के वरिष्ठ अधिकारी को अकारण ही गोली चलाकर घायल किया है। ऐसी स्थिति में सेवामुक्ति का आदेश उचित आदेश है। अगर श्रमिक को सेवामुक्ति का आदेश नहीं दिया जाता तो कालरी में इस प्रकार की प्रवृत्ति को बढ़ावा मिलेगा। वर्तमान प्रकरण में श्रमिक ने अकारण ही श्री सक्सेना पर गोली चलाई है। श्रमिक का कदाचरण गंभीर है। इस कदाचरण के प्रकाश में सेवामुक्ति का आदेश विधिवत है।

12. ऊपर लिखी विवेचना का निष्कर्ष है कि श्रमिक की सेवामुक्ति का आदेश विधिवत है तथा इसमें हस्तक्षेप की आवश्यकता नहीं है। अवार्ड प्रबंधन के पक्ष में दिया जाता है। दोनों पक्ष इस प्रकरण का अपना-अपना व्यय वहन करें।

13. नियमानुसार अवार्ड की प्रतियां भारत सरकार, श्रम मंत्रालय को प्रेषित की जाती हैं।

डी. एन. दीक्षित, पीठासीन अधिकारी

आदेश

नई दिल्ली, 15 दिसम्बर, 1998

का.आ. 2737.—जबकि केन्द्रीय सरकार की यह राय है कि भारतीय खाद्य निगम के प्रबंधन से संबंधित नियोजकों और उनके कर्मचारियों के बीच इसके अधीन संलग्न अनुसूची में विनिर्दिष्ट मामले में एक औद्योगिक विवाद विद्यमान है;

और जबकि इस विवाद में राष्ट्रीय महत्व का प्रश्न समाहित है और यह भी कि यह इस प्रकृति का है कि भारतीय खाद्य निगम के प्रतिष्ठान एक से अधिक राज्यों में अवस्थित हैं और इस विवाद से संबंध है अथवा प्रभावित होने की संभावना है;

और जबकि केन्द्रीय सरकार की यह राय है कि उक्त विवाद का न्यायनिर्णयन एक राष्ट्रीय न्यायाधिकरण द्वारा किया जाना चाहिए;

अब, इसलिए, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 7ख द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा एक राष्ट्रीय औद्योगिक न्यायाधिकरण का गठन करती है, जिसका मुख्यालय कलकत्ता में होगा और इसके पीठासीन अधिकारी के रूप में न्यायमूर्ति श्री ए. के. चक्रवर्ती जो इस समय सी.जी.आई.टी. कलकत्ता के पीठासीन अधिकारी हैं को नियुक्त करती है और उक्त अधिनियम की धारा 10 की उपधारा (1क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त औद्योगिक विवाद को न्यायनिर्णय के लिए उक्त राष्ट्रीय औद्योगिक न्यायाधिकरण को संदर्भित करती है। उक्त राष्ट्रीय न्यायाधिकरण छ माह के भीतर अपना पंचाट देगा।

अनुसूची

“क्या पश्चिम बंगाल, बिहार, उड़ीसा, असम तथा पूर्वोत्तर क्षेत्र के सभी भारतीय खाद्य निगम, एफ. एस. डी. के सभी विभागीय कर्मचारियों को जिनका मूल वेतन 1006.00 रुपये प्रतिमाह अथवा अधिक हो गया है को 1990-93 ब्लॉक वर्ष के लिए छट्टी यात्रा रियायत (भारत वर्शन) से संबंधित प्रथम श्रेणी रेल किराया की प्रतिपूर्ति की सुविधा का इन्कार करने में भारतीय खाद्य निगम से संबंधित प्रबंधकों की कार्रवाई न्यायोचित है? यदि नहीं तो कर्मकार क्या सुविधा प्राप्त करने के हकदार हैं?”

[संख्या एल-22012/439/95-आई.आर. (सी-II)]

वी. के. राजन, डेस्क अधिकारी

ORDER

New Delhi, the 15th December, 1998

S.O. 2737.I Whereas the Central Government is of the opinion that an industrial dispute exists between the employers in relation to the management of Food Corporation of India and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the dispute involves question of national importance and also is of such nature that the establishments of Food Corporation of India situated in more than one State are likely to be interested in, or affected;

And whereas the Central Government is of the opinion that the said dispute should be adjudicated by the National Tribunal;

Now, therefore, the Central Government in exercise of the powers conferred by Section 7-B of the I.D. Act, 1947 (14 of 1947), hereby constitutes a National Industrial Tribunal with the Head Quarters at Calcutta and appoint Justice Sh. A. K. Chakravarty, presently Presiding Officer, C.G.I.T.I. Calcutta as its Presiding Officer, and in exercise of the powers conferred by Sub Section (1A) of Section 10 of the I.D. Act hereby refers the said Industrial Dispute to the said National Tribunal for adjudication. The said National Tribunal shall give its award within a period of six months.

SCHEDULE

“Whether the action of the management in relation to FCI in denying facilities of reimbursement of First Class Rly. Fare towards LTC (Bharat Darshan) for the block year 1990-93 to departmental workers of all FCI FSDs of West Bengal, Bihar, Orissa, Assam and NEF Region who reached the basic pay Rs. 1006.00 per month or above, is justified? If not, to what relief are the workmen entitled?”

[No. L-22012/439/95-IR(C-II)]  
V.K. RAJAN, Desk Officer

नई दिल्ली, 30 नवम्बर, 1998

का. आ. 2738.—औद्योगिक विवाद अधिनियम, 1947 ( 1947 का 14 ) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टेलीकॉम डिपार्टमेंट के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 2, मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-11-98 को प्राप्त हुआ था।

[सं. एल.-40012/74/96-आई आर (डी यू)]  
के. वी. बी. उण्णी, अवर सचिव

New Delhi, the 30th November, 1998

S.O. 2738.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Telecom Department and their workman, which was received by the Central Government on the 30-11-98.

[No. L-40012/74/96-IR(DU)]

K.V.B. UNNY, Under Secy.

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO. II, MUMBAI  
PRESENT :

Shri S. B. Panse, Presiding Officer.

REFERENCE NO. CGIT-2/33 of 1998

Employers in relation to the management of Telecom District Manager

AND

Their workmen

## APPEARANCES :

For the employer : Smt. Neeta V. Masurkar, Advocate.

For the workmen . No Appearance.

Mumbai, dated 13th November, 1998

## AWARD

The Government of India, Ministry of Labour by its order No. L-40012/74/96-IR (DU) dated 10th March, 1998 had referred to the following Industrial Dispute for adjudication :

"Whether the Charter of demand put forth by the All India Telecom Emp. Union Line Staff Group 'D' Employees, Jalgaon (Annexure-'A') is legal and justified? If so, to what relief the workmen are entitled to?"

2. From the order of the reference it is very clear that the department while sending this order to the Tribunal also send a copy of this order to the concerned parties. After receipt of the order the Secretary

of the Tribunal had also send notices to the concerned parties by Registered Post Acknowledgment due. One Mr. Masurkar, Advocate appeared on behalf of the management. But nobody turned up on behalf of the union.

3. After perusal of the acknowledgement receipt it is traced out that it was send to the address given in the order of the reference. It was received there. It appears that the union is using the office of the management for their correspondence purpose. As nobody appeared on behalf of the union the Secretary was asked to send the notice to one Mr. Chaudhari who normally appears on behalf of the union from Jalgaon, Dhule side. He informed the Tribunal by his letter that he had no concern with the reference and he will not attend the matter.

4. Under such circumstances I do not find it necessary to keep the reference pending. Because nothing can be done in this matter now. In the result I pass the following order :

## ORDER

The reference is disposed off for want of prosecution.

S. B. PANSE, Presiding Officer

नई दिल्ली, 1 दिसम्बर, 1998

का. आ. 2739.—औद्योगिक विवाद अधिनियम, 1947 ( 1947 का 14 ) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मद्रास पोर्ट ट्रस्ट के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, मद्रास के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-12-98 को प्राप्त हुआ था।

[सं. एल.-33012/3/95-आई. आर. ( विविध )]  
के. वी. बी. उण्णी, अवर सचिव

New Delhi, the 1st December, 1998

S.O. 2739.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Chennai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Madras Port Trust and their workman, which was received by the Central Government on the 1-12-1998.

[No. L-33012/3/95-IR(Misc.)]

K. V. B. UNNY, Under Secy.

## ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL,  
TAMIL NADU, CHENNAI

Thursday, the 20th day of August, 1998

## PRESENT :

Thiru S. Ashok Kumar, M.Sc., B.L.,

Industrial Tribunal.

Industrial Dispute No. 56 of 1995

(In the matter of the dispute for adjudication under Section 10(1)(d) of the I.D. Act, 1947 between the Workmen and the Management of Madras Port Trust, Madras).

## BETWEEN

Sri G. Gunasekaran,  
C/o G. Muniyandi,  
38, Arunachala Eswari Koil Street,  
New Vannarapettai,  
Madras-600081.

## AND

The Chairman,  
Madras Port Trust,  
Rajaji Salai,  
Madras-1.

## REFERENCE :

Order No. L-33012/3/95-IR(Misc.), Ministry of Labour, dated 28/29-8-95. Govt. of India, New Delhi.

This dispute coming on for final hearing on Friday, the 10th day of July 1998 upon perusing the reference, claim, counter statements and all other material papers on record and upon hearing the arguments of Thiru P. Viswanathan Kakkai, Advocate appearing for the petitioner workman and of Thiru R. Arumukham, Advocate appearing for the respondent management, and this dispute having stood over till this day for consideration, this Tribunal made the following.

## AWARD

This reference has been made for adjudication of the following issue :

“Whether the action of the management of Madras Port Trust Madras in terminating the services of Shri G. Gunasekaran, Lascar Gr. II in Marine Deptt., Madras Port Trust with effect from 21-4-90 is just, proper and legal? If not to what relief is the workman entitled.

2. The main averments found in the claim statement filed by the petitioner are as follows.—The petitioner was appointed as Lascar Gr. II in Marine

Department of the respondent management and joined duty on 27-12-82. His services were regularised and he was confirmed in service w.e.f. 9-8-85. Due to some disputes in his family and mental tortures and pains, he was not able to attend office and was forced to absent himself without any knowledge of its consequences and failed to attend office from 11-12-89. A memo dated 6-9-90 was issued to him calling for his explanation for his unauthorised absence. He submitted explanation on 3-2-90 wherein he has stated that he was taking medical treatment from 11-12-89 to 2-2-90 and requested to regularise his absence. The respondent issued a charge memo dated 26-2-90 and initiated an enquiry for his absence from 11-12-89 to 4-2-90. After enquiry, the Enquiry officer has held that the petitioner is guilty of the charge. Based on the Enquiry officer's report second show cause notice dated 19-3-90 was issued to the petitioner to submit explanation as to why he should not be discharged from service. Petitioner was further directed to meet the Deputy Port Conservator personally on 5-4-90 at 15.00 hrs. and claimant also promptly met the Deputy Port Conservator and pleaded for grant of mercy for the charges framed against him. The petitioner was discharged from respondent service by an order dated 18-4-90, against the order of dismissal, petitioner submitted an appeal to the Chairman of the Madras Port Trust and prayed for lesser punishment than the discharge from duty which is more severe and capital. The punishment imposed on the petitioner is disproportionate to the charges framed against him. The petitioner submitted his reminder to the Appellate Authority on 18-7-90. The petitioner's appeal was dismissed by the Deputy Chairman by order dated 25-8-90. The petitioner's review petition to the Chairman on 20-4-91 and 18-11-91 were also dismissed by the Chairman on 28-5-93. In the case of one P. Jayaraman, Lascar Grade I of the Marine Department who has absented unauthorisedly for 639 days from 1992-93 he was reinstated in service and was continued in service whereas the petitioner who has absented for lesser period of 608 days only has been dismissed from service. The petitioner submitted application before Assistant Commissioner of Labour (Central) where the respondent filed a counter stating that it is not feasible to take the claimant as a fresh recruit. Assistant Commissioner of Labour has sent a failure report dated 31-1-95. In his letter dated 14-2-93, the petitioner has informed to the Asst. Commissioner of Labour, that Enquiry officer nominated by the respondent by name Sh. Cap. K. Philip has already acted as Enquiry officer against him and imposed punishment wantonly. Therefore the said Enquiry officer has acted on prejudiced grounds and without considering the merits of the case, he has recommended for the severe punishment much against the rules in force. The Enquiry officer is at liberty to say whether the charged petitioner is guilty or not but he is not authorised to propose any punishment. The petitioner prays to set aside the

order of termination and direct the respondent to reinstate him in service with continuity of service backwages and other benefits.

3. The main averments found in the counter statement filed by the respondent management are as follows.—The petitioner was appointed as Lascar Gr. II w.e.f. 27-9-82 and was confirmed with effect from 9-9-85. The petitioner was not regular in his attendance and was found frequently absenting from duty without prior sanction. The petitioner was absent for duty from 11-12-89 onwards without prior permission. A memo was issued on 6-1-90 directing the petitioner to submit his explanation. But the petitioner did not report for duty inspite of that memo. On 3-2-90 a reply was sent by the petitioner stating that he was suffering from liver diseases and was taking treatment in a private hospital and hence did not attend duty from 11-12-89 to 2-2-90. The petitioner was permitted to join duty on 5-2-90 without prejudice to disciplinary action against him for unauthorised absence for duty from 11-12-89 to 4-2-90. Charge memo dt. 26-2-90 was issued to the petitioner. The charges framed against the petitioner was that he was absent for duty from 11-12-89 to 4-2-90. Without prior permission, inspite of repeated warnings earlier and in violation of Clause 4(7) of the Madras Port Trust Employees' (Conduct) Regulations 1987. The petitioner was informed that an enquiry would be conducted by Cap. K.M. Philip. All opportunities were given to the petitioner in the domestic enquiry and the enquiry was conducted impartially. Findings were submitted by Enquiry Officer holding that the petitioner was guilty of the charges. Final show cause notice dated 19-3-90 enclosing the copy of the Enquiry Officer's report was sent to the petitioner and a personal hearing was also given to him. Petitioner was discharged from the service of the respondent by an order dated 18-4-90. An appeal dated 25-4-90 submitted by the petitioner and another appeal on 18-7-90 were considered by the appellate authority and the appeals were rejected. The dispute was not raised immediately. The dispute was raised only in September 1992 after a period of 1-1/2 years. The dispute raised by the petitioner is liable to be rejected due to laches. Order of discharge had been issued to petitioner after taking into consideration of all materials available before the respondent. Service records of the petitioner would show that the order issued to him is just and reasonable. The petitioner absented from duty frequently and leave account of petitioner reveals that he was on leave without pay as follows :

184 : 34 days.

1985 : 100 days.

1986 : 77 days.

1987 : 80 days.

1988 : 147 days.

1989 : 136 days.

1990 Jan. & February : 34 days.

besides all other leave which petitioner was entitled to. The petitioner was twice warned for his unauthorised absence during 1987. He was warned for his unauthorised absence during January 1988 and severely warned for his unauthorised absence during April 1988 and increment was withheld without cumulative effect for one year for his unauthorised absence from 20-2-89 to 29-3-89. The petitioner had not shown any improvement in his attendance despite imposing the above punishments, and absented from duty from 11-12-89 to 4-2-90. Inspite of the above, lenient view was taken by the respondent, and punishment of discharge was imposed instead of dismissal. The order of discharge issued against the petitioner is just and reasonable and no interference is called for either to set aside or to modify the discharge order. It is not correct to state that all the duties of the petitioner were discharged with devotion to duty and sincerity in service from the date of joining the service. It is admitted by the petitioner that he was unauthorisedly absent from 11-12-89. It is admitted by the petitioner that grant of excuse was pleaded by him in the personal hearing for charges framed against him, and petitioner prayed for lesser punishment. The punishment imposed is not disproportionate to the charges framed against him. The petitioner is aware that his petition dt. 25-4-90 was dismissed. The review petition are not maintainable. The case of one P. Jayaraman, could not be compared with the petitioner when especially the appellate authority considered the entire materials and on the basis of extenuating circumstances interfered with the order of disciplinary authority, as there was no scope to interfere in the case of the petitioner, the appeal was dismissed. Hence the case of P. Jayaraman could not be compared for reinstatement. The suggestion of Assistant Labour Commissioner to examine whether the petitioner could be taken back as a fresh recruit was examined in detail. The Marine Department in which the petitioner was employed being an operational department attending to ship movements, the absence of even one person in a floating craft could dislocate the posting resulting in the particular floating craft not being available for shipping work and thereby causing avoidable delay in Shipping movements which cannot be afforded to by the Port. The Assistant Labour Commissioner was informed that the petitioner could not be entertained as a fresh recruit. It is not correct to state that the Enquiry Officer imposed punishment wantonly. It is denied that the Enquiry Officer acted on prejudiced grounds and without considering merits of his case, and proposed severe punishment. The Enquiry Officer was Capt. Philip Dock Master and the enquiry was conducted without any bias or prejudice and the

punishment was imposed by the Disciplinary Authority based on the findings of the Enquiry Officer and not on the suggestions of the Enquiry Officer. The petitioner has not made any whisper in the claim statement that the domestic enquiry conducted against him is not fair and proper and the enquiry report is perverse. The respondent prays to dismiss the claim petition.

4. The petitioner has examined himself as WW1 and Ex. W1 to W-14 have been marked. On behalf of the respondent management no witness was examined and no document was marked.

5. The point for consideration is : Whether the action of the management of the respondent Madras Port Trust in terminating the service of petitioner G. Gunasekaran w.e.f. 21-4-90 is just, proper and legal ? If not, what relief is the workman entitled to ?

6. The Point : The petitioner-workman was appointed as Lascar Gr. II by an order dated 20-9-82, Ex. W-1 under the respondent management. By an order Ex. W-2 dt. 23-4-86 the petitioner was confirmed in the same post w.e.f. 9-8-85. Since the petitioner absented himself from duty without prior permission from 11-12-89, Ex. W-3 memo dated 6-1-90 was issued to him calling for his explanation. On 3-2-90 the petitioner submitted Ex. W-4 explanation stating that since he was suffering from some diseases concerned with his liver, he was taking treatment in a private hospital, and he has also enclosed a medical certificate alongwith his explanation. In the said letter, he has also asked permission to join duty. The petitioner has joined duty on 5-2-90. Not satisfied with explanation of the petitioner a charge sheet was issued for his absence from 11-12-89 to 4-2-90 and alongwith the charge sheet enquiry was also ordered to be conducted at 15.00 hours on 5-3-90. The charge memo and enquiry notice is Ex. W-5. On 5-3-90 enquiry was conducted wherein the Enquiry Officer has put five questions directly to the petitioner regarding his absence and his failure to inform about his illness. The petitioner has answered that he had too much of debts and also family problem due to his recent marriage and also he was suffering from illness. In the course of the proceedings, the absence of the petitioner from 1984 to 1989 for several days and also warnings given to him for such absence have been taken note of by the Enquiry Officer. The enquiry proceedings are Ex. W-6. The Enquiry Officer found the petitioner guilty of the charge framed against him. Accepting the findings of the Enquiry Officer, the respondent issued a show cause notice proposing punishment of discharge from service and the said show cause notice is Ex. W-7. The petitioner was also given opportunity to be heard personally and the petitioner has also made personal representation. By order dt. 18-4-90 Ex. W-9 the petitioner was discharged 3354 GI/98—18

from service with immediate effect. The petitioner preferred appeal Ex. W-10 and W-11 which were also dismissed. The petitioner's application for review was also dismissed. Thereafter the petitioner raised the dispute before the Asstt. Labour Commissioner (Central), Madras.

7. The contention of the learned counsel for the petitioner is that though the charge was issued for the petitioner's absence from 11-12-1989 to 4-2-90 for a period of 54 days punishment has been given for earlier period of absence in the previous years also. The further contention of the learned counsel for the petitioner is that even though the petitioner was absent for lesser number of days when compared to the case of one P. Jayaraman, another employee in the same department, who was dismissed from service, but no appeal the dismissal was modified and has been taken back to service whereas this petitioner has been discriminated. In his claim statement, the petitioner has mentioned that one P. Jayaraman, a Lascar Grade I of the Marine Department who absented himself unauthorisedly for 639 days has been reinstated in service whereas the petitioner who has absented for lesser period of 608 days has been dismissed from service. In the counter statement in Para 14 the respondent has simply stated that the case of Jayaraman cited by the petitioner cannot be compared with him especially the Appellate Authority considered entire materials and on the basis of extenuating circumstances interfered with the order of Disciplinary Authority but in respect of the petitioner, there is no scope to interfere and hence his appeal was dismissed. During evidence, the petitioner has deposed that employees like Rajendran, Sivanesan, Muthu and Kali who were also Lascars alongwith him also have absented themselves unauthorisedly for long periods, but they have been reinstated in service. To the above averment of the petitioner the respondent has not challenged his evidence during the cross-examination. Even in the course of the argument, Learned counsel for the respondent did not dispute that several employees Jayaraman, Rajendran, Sivanesan, Muthu and Kali who have absented themselves for long periods without prior permission have been taken back for duty.

9. Ex. W-14 is the order of discharge of one P. Jayaraman for his unauthorised absence for 639 days. Though he was discharged from service by an order dated 15-7-93 on appeal he has been reinstated in service. On the other hand the respondent has dismissed the appeal preferred by this petitioner who has replied in the enquiry that due to family problems, indebtedness and diseases he was not able to attend to duty. This shows clear discrimination made by the respondent. Our Hon'ble High Court in Rajamanickam Vs. The E. D. Bharat Heavy Electricals Limited, Tiruchirapalli & Anr., our High Court has held as follows :





tribution to the P.F. This letter makes it clear that to get over the demand made by the employer he has taken this stand that no dues can be adjusted against employees contribution. But it is to be noted that the amount said to be due was on account of the treatment given to his mother after the termination of his services by the employer. This shows that the workman wanted to take advantage by describing himself as an employee even though he was not interested in re-instatement. This conclusion is further strengthened by the fact that the workman has raised the dispute through the Union only in 1991 when the order has been issued to him removing him from service with effect from 28-4-1981, there is no explanation as to why the workman has not initiated proceedings to raise an industrial dispute on the ground that he has been unlawfully retrenched in the above circumstances. The arguments of the learned counsel appearing for the management that it is not a case of retrenchment but only a case of abandonment gains more weight. But the law is well settled that even in the case of abandonment of service the employer has to give notice to the workman calling upon him to resume his duty and also to hold an enquiry before terminating the services on that ground. In the present case it cannot be stated that the employer has given notice since the notice is said to have been sent to Bombay address of the workman when he was in Iraq. It is not in dispute that there was no enquiry held by the employer. Therefore, the termination of services of the workman without notice and without holding an enquiry has to be necessarily held as not legal and justified. Therefore, the workman is entitled to an order of re-instatement. The next question that has to be considered is whether the workman is entitled to back wages and other benefits. We have already seen that it is a case of abandonment of his employment by the workman. It is only on account of failure of the employer to issue a notice and to hold an enquiry, employee gets an order of re-instatement in his favour. But that cannot enable him to get an order for back wages and other benefits since it has been established that the employee himself has written in his letter that he is not praying for re-instatement and it has been established by the evidence placed before the tribunal that the workman only wants to avoid payment of the dues payable by him on account of the treatment given to his mother and other dues when he was called upon to pay the sum, he has chosen to challenge the order of termination. It has also been established that no valid reason has been given by the Union for raising the dispute after a delay of 10 years of termination of the employee. In the above circumstances the employee who is entitled to an order of re-instatement is not entitled to an order of back wages and other benefits.

In the result an Award is passed holding that the removal of name of Mr. Dalvi from the muster roll of the B.P.T. Railway Deptt., is neither legal nor justified and therefore he is entitled to an order of re-instatement without an order of back wages and other benefits.

Award passed accordingly.

C. V. GOVARDHAN, Presiding Officer

नई दिल्ली, 1 दिसम्बर, 1998

का.अ. 2471 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुम्बई पोर्ट ट्रस्ट के प्रबंधन के संबंध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं.-I, मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-12-98 को प्राप्त हुआ था।

[सं. एन-31012/1/96-आई.आर. (विविध)]

के.वी.बी. उण्णी, अवर सचिव

New Delhi, the 1st December, 1998

S.O. 2741.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. 1, Mumbai as shown in the Annexure. in the industrial dispute between the employers in relation to the management of Bombay Port Trust and their workman, which was received by the Central Government on the 1-12-1998.

[No. L-31012/1/96-IR (Misc.)]

K. V. B. UNNY, Under Secy.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

#### PRESENT :

Shri Justice C. V. Govardhan, Presiding Officer.

REFERENCE NO. CGIT-18 OF 1996

#### PARTIES :

Employers in relation to the management of Bombay Port Trust

#### AND

Their Workmen

#### APPEARANCES :

For the Management : Shri M. B. Anchan, Advocate.

For the Workman : Shri Wagh, Advocate.

Mumbai, dated the 19th day of November, 1998

#### AWARD

1. The Central Government by its order dated 26-7-1996 has referred the following dispute between the management of B.P.T. and its employee Shri I.A. Sheikh for adjudication by this Tribunal.

"Whether the action of the management of Bombay Port Trust in punishing the workman by imposing penalty of reduction of pay by four increments for 3 years effective from 27-11-1986 on Shri I.A. Sheikh is justified? If not, to what relief is the workman entitled to?"

2. The workman in his claim statement contends briefly as follows :

The Management of M.B.P.T. has a scheme under its Centenary Commemoration fund to reimburse hotel bills to the extent of Rs. 30 per day in 1982 and Rs. 50 per day from 1983 onwards upto 10 days every year to its employees who visit places other than home towns. In 1982 between 12-5-1982 to 19-5-1982 in 1983 between 4-11-1983 to 13-11-1983 and in 1984 from 23-4-1984 to 3-5-1984 the employee visited Sawantwadi, stayed at Hotel Gomantak, claimed reimbursement and his bills were passed for payment. The Chief Labour Officer for the scheme who became suspicious of the claims of the employee lodged a complaint with the Felton Road Police Station for cheating. The Inspector of palton road police station after investigation has held that there is no prima facie case against the workman. On the basis of the report submitted by the Chief Labour Officer, the workman was placed under suspension by the then Chairman by its order dated 07-1-1985. There after the then deputy chairman issued a charge sheet dated 02-5-1985 to the employee. It was alleged that the workman produced false bills and claimed reimbursement and committed dishonesty. An enquiry was conducted in the year 1985-86. The Enquiry Officer has given a finding that the charges levelled against the workman were proved. On the basis of the said finding the Chairman proposed to impose a penalty on the workman namely reduction of pay by twelve increments for a period of three years with prejudice and that the suspension period will remain the same with all its consequences. The workman has filed a reply challenging the finding of the Enquiry Officer but the penalty was con-



firmed. The workman filed an appeal to them Chairman and it was forwarded to the Central Government. The Govt. remitted the appeal on being satisfied that there was substance for modification of penalty. The Dy. Chairman thereafter made further investigation by deputing two other Officers and on the basis of their report he cleared the workman of charge pertaining to the period 12-5-1982 to 19-5-1982. He modified the penalty namely reduction of pay by four increments for a period of three years without prejudice and the period of suspension will remain as such with all its consequences.

3. Similar cases of alleged production of false hotel bills were investigated by the then Chief Labour Officer against Smt. V. W. Mohendlis, Smt. A. A. Acharya and Smt. P. V. Sarkhot criminal complaints were lodged against them at the Palton Road police station. The Inspector after investigating the complaints filed criminal cases against them. The management of the B.P.T. issued them charge sheet similar to those levelled against the workman. Departmental enquiries were held against them also. The Enquiry Officer who was common for all of them held them also guilty of all charges. Similar penalties were awarded to the above three employees also. They went in appeal to the Government. The Government turned down their appeal. The criminal cases filed against the three women ended in acquittal of the three employees. Consequent to their acquittal they have petitioned to the B.P.T. to set aside their penalties. On rejection of their petitions, the union raised an industrial dispute on their behalf. The management, agreed before the Regional Labour Commissioner (C) to set aside their penalties. The union, therefore, had withdrawn the industrial dispute. They were also exonerated of all the charges by the management.

4. The workman submitted a review petition and contended that there was no criminal case against him. He prayed for setting aside his penalty as was done in the case of three Lady Clerks on their review petition. The Chairman retained the penalty of reduction of his pay by four increments for three years without prejudice and modified that the suspension period from 08-1-1985 to 26-11-1986 be treated as duty with all attendance and other benefits. It is a discrimination against the workman and therefore, the union has raised this Industrial Dispute. Penalty imposed on the workman is unjustified and illegal and is against principle of enquiry and therefore it has to be stay aside.

The management in their written statement contends briefly as follows:

The workman concerned claimed reimbursement of lodging charges for his stay along with his wife in Hote Gomantak, Sawantwadi for the periods 12-5-1982 to 19-5-1982, 04-11-83 to 13-11-1983 and 22-4-1984 to 03-5-1984. He was reimbursed with the lodging charges claimed by him. In the year 1984 the Port Trust received a complaint that some of the employees are producing bogus receipts claiming reimbursement at rates higher than the rates noticed by the concerned hotels with an intention to deceive the administration by adopting fraudulent practices. On investigation, it was found that the employee has preferred claim/reimbursement falsely. For the said misconduct a departmental enquiry was instituted. The workman was found guilty of the charges levelled against him. The disciplinary authority concurred with the findings of the Enquiry Officer. He was awarded with penalty of reduction of pay by four increments for three years. On appeal the Chairman modified the order of the disciplinary authority by awarding penalty of reduction of pay by four increments for three years without prejudice to further increments but suspension period was treated as that of suspension only. The workman preferred a review petition to the Chairman. A final order has been passed by the Chairman holding that the period of suspension from 08-1-1985 to 26-11-1986 will be treated as on duty with all attendance benefits and confirming the reduction of pay by four increments for three years without prejudice. The said penalty is justified and the workman is not entitled to any relief.

6. The workman filed a rejoinder reiterating his earlier stand in the claim statement.

The point for consideration is whether the reduction of four increments for three years without prejudice to future increments to the workman is legal and justified.

3354 G1/98—19

The Point :

The learned Advocate Mr. Wagh has argued that reduction of four increments for a period of three years without prejudice is a penalty which remains as a stigma on the service of the workman who had discharged his duties without any blemish and the punishment imposed on the workman is a clear case of discrimination. According to the learned counsel, three other lady clerks who have been chargesheeted and enquired by the Chief Labour Officer were also found guilty of the charges like the employee herein and they were absorbed of the charges therein and punishment imposed on them has also been set aside subsequent to their being found not guilty and acquitted in the criminal court. According to learned counsel similar complaints have been given to the police by the Chief Labour Officer and the Inspector of police who has investigated the complaint made against the workman and the other three women clerks has given a report that there is no prima facie case against the workman herein whereas he has filed criminal case against the three lady clerks and in spite of the fact that the investigating authorities have found that there was no prima facie case, the employee herein has been imposed with a penalty while the other three lady clerks who have faced prosecution in criminal cases have been absorbed of their liability on account of their acquittal in the criminal cases. According to the learned counsel the very fact that the Investigating Officer has given a report that there is no prima facie case against the workman itself would go to show that the finding of the Enquiry Officer which has been accepted by the disciplinary authority cannot be accepted.

7. There is no dispute with regard to the fact that four employees of the M.B.P.T. faced departmental enquiry initiated by the management. There is also no dispute that the Enquiry Officer found all of them guilty of the charges levelled against them. It is an admitted fact that three lady clerks who faced similar charges against whom disciplinary proceedings have been initiated by the management have been acquitted in the criminal case filed against them. There is no such criminal cases against this employee. This fact itself would be sufficient to hold that the imposing of penalty on the basis of the finding of the Enquiry Officer cannot be sustained.

8. The Enquiry Officer in her report has observed that she is convinced that the charge-sheeted employee has made a false claims using cash memo receipt with an ulterior motive to claim higher amount of lodging charges and he has not stayed in the said Hotel Gomantak, Sawantwadi, during the periods for which he has claimed reimbursement of lodging charges. Before coming to this conclusion, she has not considered the statement of the chargesheeted employee that he stayed in the said hotel with children and has taken Cot, Mosquito nets during his stay, and explained for higher charges claimed. When other three chargesheeted employees were also similarly found guilty of the charges levelled against them by the Enquiry Officer. Subsequent to their acquittal in criminal cases on the review of the cases filed by them their punishment has been set aside by the Chairman. This fact has been brought to the notice of the Chairman by the Financial Assistant and Chief Accounts Officer who put a note for consideration of the Chairman wherein he has noted that he personally feels it to be discriminatory if the penalty issued to Shri Sheikh namely reduction in pay by four stages for three years without prejudice and treating the suspension period as such is allowed to continue. The Chairman did not agree with the Financial Advisor and Chief Accounts Officer. On this aspect he has called for further particulars by his order dated 22-5-94. The Financial Advisor and Chief Accounts Officer has put a second note dated 04-6-94. In this note it has been specifically stated by him as follows :

"Since other three employees who have faced similar charges and similar cases got their penalty revoked from the appellate authority after their acquittal in the criminal case their revocation of penalty in Sheikh cases was also considered justifiable as he has not even faced criminal proceedings against him and accordingly was recommended for Chairman's consideration".

A note made by the Chairman on this minutes shows that there was a discussion between the Chairman and the Financial Advisor and Chairman has passed orders to the effect that the benefit of acquittal by Court, then by Government is not available for whatever reason and in view of this the proposal in paragraph 3 of above is approved. In paragraph 3 the Financial Advisor has recommended that if it is felt that, it is not the entire punishment at least the one regarding to the suspension be revoked. It is under this background the punishment relating to the suspension has been revoked and punishment with regard to the reduction of four increments for three years without prejudice has been confirmed by the Chairman. The reasoning given by the Chairman for confirming this punishment is not in accordance with law and it is not legal and justified. When four charge sheeted employees have been found guilty of similar charges by the Enquiry Officer who held the domestic enquiry and when three of them have been let off without any penalty on the ground that they were acquitted in the criminal cases faced by the imposing penalty for the remaining one person on the ground that there is no criminal case and he was deprived to the benefit of acquittal by the criminal court is a clear case of discrimination and therefore I hold on the point that the punishment imposed on the employee is neither legal nor justified, and therefore, he is entitled to the order passed by the Chairman revoked and he is entitled to all the four increments which have been withheld.

An award is passed holding that the imposing of penalty of reduction of pay by four increments for three years effective from 27-11-1986 on Shri I. A. Sheikh is not justified and therefore, he is entitled to all the four increments which have been withheld.

C. V. GOVARDHAN, Presiding Officer

नई दिल्ली, 1 दिसम्बर, 1998

का.आ. 2472 — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिपींग कापोरेशन ऑफ इंडिया के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, सं. I मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-12-98 को प्राप्त हुआ था।

[सं. एल.-42012/8/97-आई.आर. (विविध)]

के.वी.बी. उण्णी, अवर सचिव

New Delhi, the 1st December, 1998

S.O. 2742.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No.-I, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Shipping Corporation of India and their workman, which was received by the Central Government on the 1-12-1998.

[No. L-42012/8/97-IR (Misc.)]

K. V. B. UNNY, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
TRIBUNAL NO. 1, MUMBAI

PRESENT :

Shri Justice C. V. Govardhan, Presiding Officer.

REFERENCE NO. CGIT-47 OF 1998.

PARTIES :

Employers in relation to the management of  
Shipping Corporation of India.

AND

Their Workmen.

APPEARANCES :

For the Management : Shri Uttam, Advocate.

For the Workman : No appearance.

Mumbai, dated the 17th November, 1998.

AWARD

Shri Uttam, Advocate present for the management. Notices were sent to both the sides on 5-10-1998 by registered post A. D. for 9-11-1998. On 9-11-1998 both the parties were absent even through notices were issued on them, and the matter has adjourned for today, i.e. 17-11-1998. Today neither workman present nor filed statement of claim before this Tribunal. Hence, it appears that the workman is not interested in prosecuting the reference.

There is no material before me on basis of which the dispute referred to this Tribunal could be adjudicated in form of the workman. Hence, a no dispute Award is passed.

C. V. GOVERDHAN, Presiding Officer

नई दिल्ली, 3 दिसम्बर, 1998

का. आ. 2743 — औद्योगिक विवाद अधिनियम, 1947 ( 1947 का 14 ) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बेतवा नदी परिषद् झांसी के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-12-98 को प्राप्त हुआ था।

[सं. एल.-42011/7/96—आई आर ( डी यू )]

के. वी. बी. उण्णी, अवर सचिव

New Delhi, the 3rd December, 1998.

S.O. 2743.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Betwa Nadi Parishad, Jhansi and their workman, which was received by the Central Government on the 8-12-1998.

[No. L-42011/7/96-IR (D.U.)]

K. V. B. UNNY, Under secy.

## ANNEXURE

BEFORE SHRI B. K. SRIVASTAVA, PRESIDING  
OFFICER, CENTRAL GOVERNMENT INDUS-  
TRIAL TRIBUNAL-CUM-LABOUR COURT,  
PANDU NAGAR, KANPUR.

Industrial Dispute No. 84 of 1997.

In the matter of dispute :

BETWEEN :

Ramesh Prasad Srivastava President,  
Work-charge Karamchari Sangh,  
Betwa Nadi Parishad,  
Rajghat, Lalitpur,  
Lalitpur (Uttar Pradesh).

VERSUS

Mukhya Abhiyanta,  
Betwa Nadi Parishad,  
Rajghat Colony,  
Nandpura,  
Jhansi, (Uttar Pradesh).

APPEARANCES :

Shri B. B. Pandey : for the workman and

Shri S. K. Verma : for the management.

## AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-42011/7/96-L R. (D. U.), dated 2-6-1997, has referred the following dispute for adjudication to this Tribunal :

1. Kya Betwa Nadi Parishad ke Prabandhak Jhansi Dwara Work-charge Karamchari ko Kendrya Sarkar ke chaturth Vetan Ayog ki sifarish ke anusar vetanman ka nirdharan na karna nyayochit aur vedhanik hai ? Yadi nahi to sambandhit karamchari kis anutosh ke haqdar hai ?

2. Kya Betwa Nadi Parishad ke Prabandhak dwara sthai padon ka srajan na karke work-charge karamcharyon ko padonnati na dena nyayochit hai aur nyay sangat hai ? Yadi nahi to sambadhit karamchari kis anutosh ke haqdar hai ?

2. From a perusal of above reference it will be evident that in the first part work-charge employees has claimed Pay of regular employees which has been granted by the IVth Pay Commission.

3. In the 2nd part of reference work-charge employee have claimed regularisation and further promotion on permanent post.

4. In the claim statement it has been alleged that there are various types of categories of work-charge employees, the detail of which have been given in para 2 of the claim statement. It is alleged that as these work-charge employees are doing work on a permanent post for long time there are entitled for the pay scale of IVth Pay Commission, as well as promotion on permanent post.

5. The opposite party Betwa River Board has denied their claim.

6. In the rejoinder nothing new has been alleged.

7. It is needless to refer any evidence as the concerned workman or not entitled for both the reliefs in view of latest case law. In the case of State of Rajasthan Versus Kunji Raman 1997(1) Judgement Today (144) S. C. in which it has been held that there can not be any party between work-charge employees and permanent employee. There are separate from permanent employee. They have no right what so ever to claim wages and other benefits like that of regular one. In view of this authority these work-charge employees will not be entitled to get the benefit of IVth Pay Commission which is available to permanent employees. The work-charge employees will be entitled for benefit only when they are made permanent. On the same basis these Work-charge employees are also not entitled for promotion.

8. In view of above discussion my Award is that Work-charge employees of opposite party Betwa River Board are not entitled for the benefit of IVth Pay Commission and also not for promotion on permanent post.

B. K. SRIVASTAVA, Presiding Officer.

नई दिल्ली, 3 दिसम्बर, 1998

का. प्रा. 2744—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इन्टिग्रेटेड फिशरीज प्रोजेक्ट कोचीन के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में, लेबर कोर्ट, एरनाकुलम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-12-98 को प्राप्त हुआ था।

[सं. एल.-42011/7/97-आई आर (सीयू)]

के. वी.बी. उन्नी, अवर सचिव

New Delhi, the 3rd December, 1998

S.O. 2744.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Labour Court, Ernakulam as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Integrated Fisheries Project, Cochin and their workman, which was received by the Central Government on 3-12-98.

[No. L-42011/7/97-IR(DU)]

K. V. B. UNNY, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT LABOUR  
COURT, ERNAKULAM

(Labour Court, Ernakulam)

(Tuesday, the 29th day of September, 1998)

PRESENT:

Shri D. Mehanarajan, B.Sc., LL.B., Presiding  
Officer.

Industrial Dispute No. 52 of 1997(C)

BETWEEN

The Director, Integrated Fisheries Project,  
Ministry of Agriculture, P.B. No. 1801,  
Cochin-682 016, (Kerala State).

AND

The General Secretary, Indo-Norwegian Project  
Employees Association, C/o Integrated  
Fisheries Project, Ernakulam,  
Cochin-682016.

## REPRESENTATION:

Sri V. V. Sidharthan,  
Standing Govt. Counsel  
for Union of India,  
Chittoor Road, Kochi-16. ...For Management

## AWARD

The Government of India as per order No. 42011/  
7/97-IR(DU) dated 27-10-97 referred the following  
industrial dispute to this court for adjudication:

"Whether the demand of the Indo Norwegian  
Project Employees, Association, Cochin  
for productivity linked bonus instead of  
Ad-hoc bonus is justified? If not, to what  
relief the workmen of the Integrated Fishe-  
ries Project, Cochin are entitled to?"

2. Though notice was duly served on the General  
Secretary of the union, he did not turn up and pro-  
secute the matter. In the above circumstances, this  
court is inclined to think that the union is not at all  
interested to pursue the dispute and that no industrial  
dispute is pending to be adjudicated upon.

In the result, the reference is answered holding that  
there is no existing industrial dispute to be adjudica-  
ted upon.

Dictated to the Confidential Assistant, transcribed  
and typed out by her, corrected by me and pronounced  
in open court on this the 29th day of September,  
1998.

D. MOHANARAJAN, Presiding Officer

नई दिल्ली, 3 दिसम्बर, 1998

का. प्रा. 2745:—औद्योगिक विवाद अधिनियम,  
1947 (1947 का 14) की धारा 17 के अनुसरण में,  
केन्द्रीय सरकार सीनियर सुपरिस्टेन्डेंट ग्राफ पोस्ट आफिसिस,  
आगरा के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारों  
के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय  
सरकार औद्योगिक अधिकरण, कानपुर के पंचाट को प्रकाशित  
करती है, जो केन्द्रीय सरकार को 3-12-98 को प्राप्त  
हुआ था।

[सं. एल.-40012/20/96-आई आर (डी यू)]  
के. बी. जी. उज्ज्वी, अवसर सचिव

New Delhi, the 3rd December, 1998

S.O. 2745:—In pursuance of Section 17 of the  
Industrial Disputes Act, 1947 (14 of 1947), the

Central Government hereby publishes the Award of  
the Central Government Industrial Tribunal, Kanpur  
as shown in the Annexure, in the industrial dispute  
between the employers in relation to the management  
of Sr. Supdt. of Post Offices, Agra and their work-  
man, which was received by the Central Government  
on 3-12-98.

[No. L-40012/20/96-IR(DU)]

K. V. B. UNNY, Under Secy.

## ANNEXURE

BEFORE SRI B. K. SRIVASTAVA PRESIDING  
OFFICER( CENTRAL GOVERNMENT INDUS-  
TRIAL TRIBUNAL-CUM-LABOUR COURT,  
PANDU NAGAR, KANPUR

Industrial Dispute No. 33 of 1998

In the matter of dispute between:

Sri Kishore Kumar

S/o Kesho Lal Village 30/16 Kumhar Fada  
Chhipi Tola Agra.

AND

The Sr. Suptd. of Post Offices  
Agra.

## APPEARANCE:

Sri V. K. Gupta, Gen. Sectt. State Bank Staff  
Association—for the workman and  
Shyam Mohan Mishra—for the Post Office.

## AWARD

1. Central Government Ministry of Labour vide  
notification No. L-40012/20/96-IR(DU)  
dated 24-2-98, has referred the following  
dispute for adjudication to this Tribunal—

"Whether the action of the management of Sr.  
Suptd of Post Office Agra to terminate the  
services of Sri Kishore Kumar Sweeper w.e.f.  
8-9-94 is legal and justified? If not to what  
relief he is entitled to?"

2. The case of the concerned workman Kishore  
Kumar is that he was engaged as sweeper on regular  
and permanent post on 1-10-90 at Post Office Agra.  
He continuously worked upto 8-9-93 when his service  
were terminated in breach of provisions of Sec. 25F  
and 5 of I.D. Act.

3. The case of the opposite party management is  
that this institution is not an industry. On facts it was  
alleged that the concerned workman had worked as  
Contingent Paid Safaiwala in different periods. He  
did not work on a permanent post.

4. In the rejoinder nothing new was alleged.

5. As regards the question post office being not an  
industry the authorised representative for the depart-  
ment has conceded that in view of subsequent judg-  
ment of three judges of Hon'ble High Court he did  
not rely upon the case of Inspector of Post versus  
Thyvam Joseph. In view of this concession this point  
is decided against the opposite party.

6. As regards the plea of Section 25G of I.D. Act, there is no evidence worth the name hence it is held that there had been no breach of provisions of section 25G of I.D. Act.

7. Now it will be seen that the concerned workman had worked on a permanent post as sweeper and whether there has been breach of provisions Sec. 25F of I.D. Act. In this regard there is evidence of Kishore Kumar W.W.1 which has been rebutted by Sr. Post Master R. S. Mishra besides the workman had filed ext. W-1 to W-32 whereas management has filed instructions which had been issued from time to time and further copy of judgment in which earlier it was held that post office is not an industry.

8. Documents filed by workman are not relevant. First two papers are applications by which the applicant had demanded for restoration of his services. There are receipts by which money was paid to the concerned workman. Hence we have to refer to the evidence adduced by the parties. The concerned workman has stated that he had continuously worked from 1-10-90 to 8-9-93 which fact has been denied by R. S. Mishra. In my opinion this denial is not enough. There is copy of letter dated 1-9-93 on record filed by the management which interalia says that ban had been imposed from 1989 for not appointing casual labour. On the basis of this ban it is unlikely that the concerned workman would have engaged as a casual labour in 1990. If he was engaged he must have been engaged on a regular post. Further the management is in possession of all the record relating to concerned workman. They ought to have filed those records like attendance sheet to show the number of working days of the concerned workman. In its absence adverse inference has to be drawn against the post office. Accordingly I believe the version of the workman and hold that he had continuously worked from 1-10-90 to 8-9-93 on permanent post of sweeper. He was not engaged as a casual labour. I further hold that as he had continuously worked he had completed 240 days in a year.

9. As admittedly the concerned workman has not been paid retrenchment compensation and notice pay his termination is bad.

10. In view of above discussion my award is that termination of the services of the concerned workman is bad in law, hence he will be entitled for reinstatement.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 3 दिसम्बर, 1998

का. मा. 2746:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैंगलोर टेलीकॉम डिस्ट्रिक्ट के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारों बीच अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलोर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-12-98 को प्राप्त हुआ था।

[सं. एल.-40012/147/95-आई आर (डी यू)]  
के. वी. बी. उण्णी, अव्वर सचिव

New Delhi, the 3rd December, 1998

S.O. 2746.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Mangalore Telecom District and their workman, which was received by the Central Government on 3-12-98.

[No. L-40012/147/95-IR(DU)]

K. V. B. UNNY, Under Secy.

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,

BANGALORE

Dated 23rd November, 1998

PRESENT:

Justice R. Ramakrishna, Presiding Officer.

C.R. 155/97

I PARTY

II PARTY

Shri B. Annava,  
C/o Sri. K. Nagesh Kumar,  
Sri Ganesh Prasad,  
Malemar, Ashoknagar Post  
MANGALORE-575 006.

The General Manager,  
Mangalore Telecom Dist.,  
Old Keno Road,  
MANGALORE-575 001.

## AWARD

The Central Government vide Order No. L-40012/147/95-IR(DU) dated 26-7-96 has referred this dispute under Section 10(1)(d) of the Industrial Disputes Act, 1947 after forming an opinion that the dispute exists between the parties for adjudication on following schedule.

## SCHEDULE

"Whether the action of the management of Mangalore Telecom District to terminating the service Shri B. Annava is proper, legal and justified? If not, to what relief the workman is entitled to?"

This Tribunal has registered the dispute and issued notice on 26-9-97. Both the parties have not appeared though the notice served to them. Once again the notice under RPAD was sent. Though both the parties received the notices they have not cared to make their representations.

The first party who has raised this dispute required to co-operate for proper adjudication of the dispute.

Though a copy of the reference was marked to the first party on 26-7-96 he has not complied the statutory provisions under rule 10B of the Industrial Disputes (Central) Rules, 1957.

Since the first party is not evinced any interest in the progress of the dispute the obvious order would be rejection of the reference.

In the result this reference is rejected for the reasons stated above.

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 10 दिसम्बर, 1998

का.आ. 2747.—केन्द्रीय सरकार का समाधान हो गया है कि लोकहित में ऐसा अपेक्षित है कि भारत सरकार टंकसाल हैदराबाद में सेवाओं को जिसे औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 11 के अन्तर्गत निर्दिष्ट किया गया है उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवाएं घोषित किया जाना चाहिए।

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (४) के उपखंड (6) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए तत्काल प्रभाव से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[संख्या एस.-11017/1/96-औ.स. (जी. बि.)]

एच. सी. गुप्ता, अवसर सचिव

New Delhi, the 10th December, 1998

S.O. 2747.—Whereas the Central Government is satisfied that the public interest requires that the services in the India Government Mint, Hyderabad which is covered by item 11 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a public utility service for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares with immediate effect the said industry to be a public utility service for the purposes of the said Act for a period of six months.

[No. S-11017/1/96-IR(PL)]  
H. C. GUPTA, Under Secy.

नई दिल्ली, 14 दिसम्बर, 1998

का.आ. 2748.—केन्द्रीय सरकार ने यह समाधान हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (४) के उपखंड (vi) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.आ. 1488 दिनांक 10 जुलाई, 1998 द्वारा यूरेनियम उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 16 जुलाई, 1998 से छह मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था ;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छह मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है ;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (४) के उपखंड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 16 जनवरी, 1999 से छह मास की और कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[का. सं. एस.-11017/9/97-आई.आर. (पी. एल.)]

एच. सी. गुप्ता, अवसर सचिव

New Delhi, the 14th December, 1998

S.O. 2748.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance of the provisions of sub-clause (vi) of the clause (n) of section 2 of the Industrial Dispute Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S. O. No. 1488 dated 10th July, 1998 the Uranium Industry to be a public utility service for the purpose of the said Act, for a period of six months from the 16th July, 1998.

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act for a period of six months from the 16th January, 1999.

[No. S-11017/9/97-IR(PL)]

H.C. GUPTA, Under Secy.

नई दिल्ली, 14 दिसम्बर, 1998

का.ग्रा. 2749.—केन्द्रीय सरकार ने यह समाधान हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (इ) के उपखंड (vi) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का. ग्रा. 1304 दिनांक 15 जून, 1998 द्वारा ताम्बा खान उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 5 जुलाई, 1998 से छह मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था।

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छह मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है ;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (इ) के उपखंड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 5 जनवरी, 1999 से छह मास की और कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[फा. सं. एस.-11017/11/97-आई.ग्रा. (पी. एल.)]

एच. सी. गुप्ता, अवर सचिव

New Delhi, the 14th December, 1998

S.O. 2749.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance of the provisions of sub-clause (vi) of the clause (n) of section 2 of the Industrial Dispute Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S.O. No. 1304 dated 15th June, 1998 the Copper Mining Industry to be a public utility service for the purpose of the said

Act, for a period of six months from the 5th July, 1998;

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act for a period of six months from the 5th January, 1999

[ F. No. S-11017/11/97-JR(PL)]

H. C. GUPTA, Under Secy.

नई दिल्ली, 14 दिसम्बर, 1998

का.ग्रा. 2750.—केन्द्रीय सरकार ने यह समाधान हो जाने पर कि लोकहित में ऐसा अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (इ) के उपखंड (vi) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.ग्रा. 1305 दिनांक 15 जून, 1998 द्वारा सीमेन्ट उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 18 जून, 1998 से छह मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छह मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है ;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (इ) के उपखंड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 18 दिसम्बर, 1998 से छह मास की और कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[फा. सं. एस.-11017/12/97-आई.ग्रा. (पी. एल.)]

एच. सी. गुप्ता, अवर सचिव

New Delhi, the 14th December, 1998

S.O. 2750.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance of the provisions of sub-clause (vi) of the clause (n) of section 2 of the Industrial Dispute Act, 1947 (14 of 1947), de-

clared by the Notification of the Government of India in the Ministry of Labour S.O. No. 1305 dated 15th June, 1998 the services in the Cement Industry to be a public utility service for the purpose of the said Act, for a period of six months from the 18th June, 1998;

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act for a period of six months from the 18th December, 1998.

[No. S-11017/12/97-IR(PL)]

H. C. GUPTA, Under Secy.